

Memorandum

TO: ADVISORY COMMITTEE FOR
APARTMENT RENT ORDINANCE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: November 30, 2015

**SUBJECT: SUMMARY REPORT OF FIRST PHASE OF ADVISORY COMMITTEE
AND PUBLIC INPUT ON POTENTIAL MODIFICATIONS TO THE
CITY'S APARTMENT RENT ORDINANCE**

BACKGROUND

The purpose of this memorandum is to provide a summary of the input received at the Advisory Committee meetings convened to explore potential modifications to the City's Apartment Rent Ordinance (ARO). The exploration of potential ARO modifications was identified on June 23, 2015 as the City's second highest policy priority for FY 2015-16. On September 1, 2015, the City Council approved staff's workplan and provided additional direction to advance the following items:

- Potential modifications to Municipal Code Chapter 17.23, the Apartment Rent Ordinance (ARO) including:
 - The annual allowable rent increases;
 - The debt-service pass through;
 - Revised notification requirements for notices to vacate and rents charged to tenants in properties subject to the ARO;
 - Amendments to facilitate monitoring and enforcement of the ARO;
- Consideration of a Just Cause Eviction Ordinance;
- Evaluation of the Staffing levels to effectively monitor, enforce, and analyze the ARO program;
- Evaluation of the inclusion of duplexes as part of the ARO;
- Exploration of income eligibility criteria for rent-controlled units;
- Convene an Advisory Committee composed of tenants, owners, and advocates to provide input on Council-directed items.

Advisory Committee

Per Council direction, a 12-member Advisory Committee was convened, with six members composed of apartment owners/managers and their advocates and six members composed of

tenants and their advocates. The Advisory Committee met over several weeks to provide an initial round of input on the Council-directed items:

- September 30, 2015: Presentation on the City's Apartment Rent Ordinance provisions
- October 7, 2015: Income qualification of tenants in ARO units; Inclusion of duplexes
- October 14, 2015: Information on consultant scope of work
- October 17, 2015: Alternative standards to the annual allowable rent increase
- October 21, 2015: Cost pass-through provisions, including debt-service pass-through
- October 28, 2015: Petition and administrative hearing process; Data collection, monitoring, and enforcement
- October 31, 2015: Consideration of a just/good cause ordinance

These meetings were held in several locations, including the Roosevelt Community Center, the City Hall "wing rooms," and the City Council chambers. The original schedule included two additional meetings on November 4 and November 7, 2015 in the event that extra time was needed to discuss the Council-directed items. These meetings were not needed as the Advisory Committee covered the items in a timely manner. Another meeting was originally scheduled for November 9, 2015 in order to summarize the input that has been received during the meetings noted above. Because Advisory Committee and public input will help inform staff's recommendations to the City Council, the purpose of this "recap" meeting is to ensure that the input received so far during this process has been accurately captured. In order to provide staff sufficient time to review and process the input provided during the September and October meetings, the recap meeting was rescheduled to December 7, 2015. This recap meeting, and the report below, focuses on listing the key comments provided by the Committee and the public regarding the various Council-directed items. This report does not include staff analysis or fact-checking of the input.

ANALYSIS

Structure of the Advisory Committee Process

As mentioned above, the City Council directed the staff to create an Advisory Committee at the September 1, 2015 Council meeting. The purposes of the Advisory Committee were to create a body composed of stakeholders from both the tenant and apartment owner perspectives, and to hold a space – viewable and accessible by the public – where the two sides could provide input for staff to understand the issues from both sides. Ideally, consensus could be reached on each of the specific ARO items that Council has directed staff to explore. However, local rent ordinances are the subject of multiple perspectives and different viewpoints, often strongly held. If consensus cannot be reached, the input provided by the Advisory Committee will be instrumental in informing staff's recommendations.

Given the complexity and different viewpoints, staff utilized three tools to facilitate discussion for each of the topics at the Advisory Committee meetings. First, the Committee members were asked to identify shared principles that they all felt were important concepts that the ARO should achieve. The Committee identified three principles: certainty, predictability, and fairness. At each meeting, the Committee discussed whether each of the Council-directed items aligns with each of these shared principles.

Second, the Advisory Committee was asked if each of the Council-directed items meet the three public purposes as stated in the ARO. The public purposes are: 1) the prevention of excessive and unreasonable rent increases, 2) the alleviation of undue hardship upon tenants, and 3) the assurance of a fair and reasonable return on the value of the apartment owner's/manager's property.

Third, the Committee members indicated their positions on the Council-directed items through "temperature checks" as opposed to a standard yes-no voting mechanism. The temperature checks utilized three cards of different colors: green (in favor), yellow (mixed feelings/undecided), red (not in favor). The temperature check provided a mechanism to register uncertainty or nuanced thinking on each of the Council-directed items. A summary of the temperature check outcomes is provided below, with several members registering a "yellow" position on various items. Additional "focus questions" were used to help guide the conversation and to facilitate the Advisory Committee to provide input to staff on key issues.

Each meeting was conducted by Shawn Spano, a third party facilitator.

Public Participation

Prior to each meeting, staff sent information via a distribution list composed of over 1,500 individuals. Staff also created a dedicated email for interested parties to subscribe to, as well as a website that contains all of the information related to this process, including background information, Advisory Committee meeting agendas, minutes, and audio recordings. The website is located at the following location: <http://www.sanjoseca.gov/index.aspx?nid=4744>. Additionally, advocates for both apartment owners/managers and tenants spread the word about this process to their constituents and stakeholders.

Public attendance was consistently high, ranging between approximately 80 and 120 attendees each meeting. Attendees were composed primarily of the same apartment owners/managers representing small landlords. Some of the landlord attendees own apartment buildings under San Jose's ARO, while others represented regional groups that own apartment buildings elsewhere but not in the City or were simply interested participants. Some tenants and tenant advocates did attend the meetings but comprised a much smaller proportion of the public participants. Some of the tenant attendees are or were once tenants in an ARO-building, while others rent in non-ARO-buildings but are interested participants.

Meeting Summaries

This subsection of the report summarizes the input provided by the Advisory Committee and by the public participants at the Committee meetings for each of the agenda items. This report does not include staff analysis or fact-checking of the input. Full meeting minutes and public comments are attached as appendices to this report. Additionally, a summary of the temperature checks can be found at the bottom of this report. Positions were registered through green, yellow, or red cards. Green means “Yes, support/continue to study,” yellow means “I have mixed feelings or I am unsure,” and red means “No, do not support/continue to study.”

In general, the Committee members disagreed on whether it is needed to modify the provisions of the ARO. Tenant Committee members strongly felt the existing ARO is not working, while owner Committee members felt that the existing ARO does not need to be modified. There was also disagreement between the members whether there is a problem at all. The owner Committee members felt that the small numbers of tenant petitions and notifications to terminate tenancy indicates the lack of a problem. On the other hand, tenant Committee members felt that the lack of data indicates that 1) landlords are not complying with the ARO and that 2) the ARO is so flexible that it is difficult to violate it. The Committee members had clear differences regarding the annual allowable increase and just cause. The Committee also differed on the issue of the debt-service pass-through, although the input suggests some room for common ground.

However, the Committee members generally agreed that additional education and outreach to both owners and tenants would be helpful. Additionally, the Committee generally supported streamlining the petition and pass-through process, as well as adding data gathering, monitoring, and enforcement capacity and mechanisms. With regard the alternative standards for the annual allowable increase, the Committee agreed that the operating costs model was too complex and should not be considered.

Income Qualification (Discussed October 7, 2015)

The City Council directed staff to analyze an income qualification provision for the ARO. This would mean that rent-stabilized apartments are occupied by renters only if their incomes do not exceed a certain level. The purpose of this provision would be to ensure that only renters with greater need, ie, with low incomes, occupy ARO apartments, and to remove the potential for ARO apartments to be occupied by higher-income individuals. This is also known as “means testing.” Staff did not identify any California city with a rent ordinance that includes a provision for income qualification.

Summary of Advisory Committee Comments

- Owners:
 - Implementation and management of income qualification requirement would be too cumbersome for owners/landlords. Examples include challenges with verifying income, ongoing monitoring, etc.
 - Owners lack authority to ensure that tenant income information is correct.

- Turnover of units based on the income growth of a tenant produces vacancy, which is undesirable.
- Tenants:
 - Penalizes ARO residents for earning higher salaries over time because they might no longer qualify for an ARO apartment.
 - Prevents residents with increasing incomes from saving money for homeownership because an income qualification provision would displace them from an ARO apartment into higher-cost market-rate housing.
 - Not all income is verifiable; policy could harm vulnerable workers without a registered income.
- Temperature Check
 - 5 green; 3 red; 3 yellow; 1 absent.

During the discussion of income qualification, a landlord Committee member introduced a variation to the Council-directed income qualification provision. Rather than remove ARO tenants in the event that their incomes one day exceed the maximum income limit, instead remove the ARO apartment from coverage under the Ordinance.

- Owners:
 - Management of income restriction model is too cumbersome for owners/landlords
 - Owners lack authority to ensure tenant income information is correct
 - Landlords should be able to increase rental income when tenant's income grows
- Tenants:
 - Tenants should have protection regardless of their income
 - Lifting the annual allowable increase restriction undermines a tenant's ability to save for homeownership
- Temperature Check
 - 9 green; 1 red; 1 yellow; 1 absent.

Public Comments

- Income qualification requirement will be costly and complicated to administer and enforce.
- Creates a disincentive for tenants to earn a higher income.
- Difficult to verify tenant income.
- This requirement would force landlords to take less qualified or lower quality tenants.

Focus Questions

- Would an income qualification provision meet the shared principles of certainty, predictability, and fairness?
 - Owners did not provide specific input on this question.
 - Tenants did not provide specific input on this question
- Would an income qualification provision align with the public purposes of the ARO, including: 1) the prevention of excessive and unreasonable rent increases, 2) the alleviation of undue hardship upon tenants, and 3) the assurance of a fair and reasonable return on the value of the apartment owner's/manager's property.
 - Owners did not provide specific input on this question.
 - Tenants:
 - i. Income qualification would not align with the public purpose of the ARO.

Duplexes (Discussed October 7 and October 14)

The City Council directed staff to explore the inclusion of duplexes under the ARO. Currently, the City's ARO covers apartments of 3 units or more, and built and occupied before September 7, 1979. Within this subset of apartments, some buildings and rental units are exempt from the ARO, such as buildings with long-term government subsidies or units that have a Section 8 tenant or is occupied by the landlord. Because the number of apartments with Section 8 tenants or owner-occupancy may fluctuate each year, the net number of apartments actively under the ARO also changes annually. Typically, the number of "active" ARO apartments range between 44,000 and 46,000 units in any given year. The number of all renter-occupied units in San Jose – both ARO and non-ARO rentals – totals 133,000 according to the latest Census data (2014).

Due to State law, only the duplexes built before 1996 could be included under the City's ARO. Given this parameter, staff's analysis indicates that up to 5,460 duplexes, ie. 10,920 units, could potentially be added to the ARO supply. This represents a potential increase of approximately 24% in the ARO housing supply, assuming an annual active ARO rental stock of 45,000 apartments.

Summary of Advisory Committee Comments

- Owners:
 - Duplexes should not be included in the ARO.
 - Concerns about impacts of rent restrictions on those who have recently purchased and incurred debt on their units.

- If included in the ARO, many units in duplexes would be taken off the market due to owner-occupancy. As a result, the realistic yield of including duplexes may not be as high as expected.
 - Even if the City yielded all 10,400, it would still represent a small percentage of the total housing stock.
 - Concerns about owners of duplexes, as they are typically “mom and pops” who would be disproportionately impacted financially and administratively.
 - Issue is about the need to add to the overall housing stock, rather than bringing additional apartments under the ARO.
- Tenants:
 - Inclusion of duplexes is necessary to expand the supply of housing under the ARO.
 - False dichotomy to say that the main issue is to only increase overall housing supply. Preventing households from being displaced and increasing housing supply are both needed.
- Temperature Check
 - 6 green; 5 red; 1 absent.

Public Comments

- Duplex owners are mom and pop businesses. Including duplexes under the ARO would impact their financial viability. It is already challenging to make a profit.
- Issue of housing costs is the housing supply. Rent control will not help.
- Duplexes should be included.
- Including duplexes may encourage owners to keep units off the market.
- Duplex owners do not increase rents very much annually.

Focus Questions

- Would the inclusion of duplexes meet the shared principles of certainty, predictability, and fairness?
 - Owners did not provide specific input on this question.
 - Tenants did not provide specific input on this question
- Would the inclusion of duplexes align with the public purposes of the ARO, including: 1) the prevention of excessive and unreasonable rent increases, 2) the alleviation of undue hardship upon tenants, and 3) the assurance of a fair and reasonable return on the value of the apartment owner’s/manager’s property?
 - Owners did not provide specific input on this question.
 - Tenants:

- i. Inclusion of duplexes under the ARO would align with the public policy objectives because it would increase the ARO housing stock by up to 20%.

Alternative Standards for Annual Allowable Increase (Discussed October 17)

The City Council directed staff to explore potential modifications to the annual allowable rent increase under the ARO, currently set at a maximum of 8% annually. Staff presented three alternative standards to the Advisory Committee: flat fixed rate, linkage to the Consumer Price Index (CPI), and adjustments based on net operating income.

When San Jose's ARO was adopted in 1979, the inflation rate was approximately 8%. Most of the other cities in California with rent regulations currently link their annual allowable rent increase to the CPI. Besides San Jose, two other California cities with rent regulations provide a flat maximum rate: Hayward at 5% annually and Beverly Hills at 10% annually. The City of Santa Monica had previously used the net operating income methodology but switched to a CPI standard a few years ago. Both owners and tenants agreed that the operating income methodology is too complex and did not recommend it as an alternative standard.

Summary of Advisory Committee Comments

- Owners:
 - The ARO's existing annual allowable increase of 8% is sufficient to cover the costs of operating and maintaining the buildings, including costs that the ARO currently allow owners to recover through the Ordinance's pass-through petitions.
 - Decreasing the annual allowable increase of 8% would not allow owners to keep up with the costs of running their business.
 - Many owners consistently indicated that they do not increase rents up to the allowable 8%. They may go years without increasing rents or, if they do increase rents, they only increase them minimally.
 - City should not use the bad policies of other cities as a basis for San Jose's annual allowable standard.
 - The fundamental problem is that there is not enough housing supply. Should not try to solve the problem of high housing costs on a narrow group.
 - This is a business. Owners need to be able to run it.
 - Who determines what is a fair rate of return? It is subjective.
 - Flexibility is important to owners. If an owner does not increase rents in one year, a flexible rent ordinance that allows rents to "catch up" in the future is important. Markets are cyclical and people can move but buildings are in fixed locations. This creates a real challenge for apartment operators.
 - Rent ordinances cap annual allowable increases for tenants in a strong market, but it does not provide downside protection for owners in a weak market.

- Owners will respond to lower annual allowable increase by increasing rents to the maximum allowable to maximize profits.
 - Decreasing the annual allowable increase will result in decrease of the housing stock.
 - An index does not include utility costs or allow for enough savings to cover costs during economic downturns, major repairs or maintenance.
 - The City should not pursue the operating cost study because it's too difficult, costly and cumbersome.
 - Low volume of tenant petition data for excessive increases shows that the annual allowable increase is not a problem.
 - Operating cost alternative standard is too complex to be used as the basis of an annual allowable increase.
- Tenants:
 - Lowering the ARO's annual allowable increase does not remove the ability of owners to recover their costs to operate and maintain ARO apartments. The ARO provides pass-through provisions that allow owners the ability to pass onto renters costs related to operations and maintenance, capital improvement, and rehabilitation. Based on City data, apartment owners are not utilizing these pass-through provisions.
 - The 8% annual allowable increase was not intended to stay in perpetuity. It was based on the inflation rate at the time the ARO was implemented. Other cities that once had a high rate have since adjusted them downward.
 - Increasing housing supply and preserving the supply of affordable housing are two important strategies that go together. They are not mutually exclusive.
 - Understand that this is a business. How to have provisions that are fair to both owners and tenants.
 - There are constitutional standards for fair returns and case studies in other cities of alternative standards for the annual allowable rent increase.
 - The current annual allowable increase is much higher than the annual wage increases for the typical worker. This creates an unsustainable affordability gap.
 - The lack of predictability of rental cost to tenants makes it impossible to save money for homeownership. Homeowners have fixed rate mortgages, which facilitates the predictability of their housing costs. Renters do not have that option because their housing costs depend on what apartment owners will charge them.
 - Displacement due to high rents is happening to many people.
 - Owners indicate that the annual allowable increase provides the ability to maintain their properties, but many properties are not being maintained or improved in a manner that reflects the rent increases that tenant receive.
 - Rent ordinances in other cities (such as San Francisco) did not cause their housing shortages or high housing costs. The housing markets in those cities were out of control, and rent regulation helped mitigate displacement.
 - Has not seen rents ever decrease for in-place tenants.
 - Rent regulations do not cap rents. Vacancy decontrol (which is provided by State law) allows owners to increase rents to the market price when tenants voluntary

- vacate their units, even if the increase exceeds the ARO's 8% annual allowable increase.
- Operating cost alternative standard is too complex to be used as the basis of an annual allowable increase.

Public Comments

- Just because the ARO allows 8% annual increases does not mean owners actually raise it that much each year.
- Rent control does not solve the affordable housing issue. Root cause is not enough supply of housing.
- Owners work hard, many of whom are immigrants, and apartments are an investment and a way to pay for college.
- ARO apartments are older and need to be maintained. Costs are rising and ARO owners need to be able to pay for operations and maintenance costs.
- Landlords profit off of tenants. Rents are out of control and most people do not get raises that match rental increases.

Focus Questions

- Does the existing annual allowable increase of 8% meet the shared principles of certainty, predictability, and fairness?
 - Owners:
 - i. If the goal is fairness, perhaps tenants should be forced to stay in units when the market goes soft instead of allowing them to move where the jobs are.
 - ii. CPI does not meet any of the shared principles.
 - iii. Banking for multi-year rent increases is more fair than not having such a provision.
 - Tenants:
 - i. Existing 8% allowable provides certainty and predictability, but does not provide fairness to tenants.
 - ii. CPI offers an element of fairness, though the fluctuation does limit the certainty or predictability.
 - iii. As the “burdens” on landlords are discussed, the benefits provided through public policy and government influence like good schools, parks, community infrastructure, which drives up rents because properties become more valuable should also be discussed. This is important to remember when discussing fairness.
 - iv. Current allowable increase of 21% if rents have not increased for at least two years is unfair for tenants.
 - v. Banking does not provide predictability or certainty for tenants. If banking is allowed, there needs to be a cap.

- Does the existing annual allowable increase of 8% align with the public purposes of the ARO, including: 1) the prevention of excessive and unreasonable rent increases, 2) the alleviation of undue hardship upon tenants, and 3) the assurance of a fair and reasonable return on the value of the apartment owner's/manager's property.
 - Owners did not provide specific input on this question.
 - Tenants:

Debt Service Pass-Through (Discussed October 21, 2015 and October 28, 2015)

The City Council directed staff to explore potential modifications to the ARO's debt-service pass-through provision. This provision allows purchasers of an ARO apartment building to pass up to 80% of their mortgage cost to renters. Over the past five years, thirteen debt-service pass-through petitions have been filed with the City, leading to rental increases of \$90-\$400, or 7%-65% increases.

The debt-service pass-through is one of four pass-throughs in the ARO that allow apartment owners to pass on their costs to renters. The other pass-throughs include operations and maintenance, rehabilitation, and capital improvement. All four pass-throughs utilize a worksheet to determine the amount of the pass-through. Allowable costs under the ARO and identified on the worksheet are able to be passed through.

Although Council direction was to explore the debt-service pass-through, it became clear through the Advisory Commission process that it was necessary to review all of the pass-throughs. For example, owners consistently indicated that potential modifications to the annual allowable increase would impact their ability to operate and maintain their building. Yet, over the past five years, owners have filed no pass-through petitions for operations and maintenance or rehabilitation, while only two capital improvement petitions have been filed during the same period. Additionally, all four of the pass-through petitions require the same work and administrative process. Streamlining the requirements for one of the pass-throughs means streamlining for all of the pass-throughs. Thus, it is important to explore potential modifications to the entire pass-through program in order to make it easier for owners to use given their input about the importance of maintaining their buildings.

Summary of Advisory Committee Comments

- Owners:
 - There is no need to make changes to the debt-service pass-through because investors need the regulation to support the financial viability of their investment..
 - Elimination of the debt-service provision may harm owners who have recently purchased a property and may be considering petitioning for a pass-through, if the debt service petition was part of their financing plan.

- Elimination of the provision may lead to foreclosure for units purchased within the year the provision is eliminated.
 - Eliminating the debt-service provision will reduce the value of the property at the time of sale.
 - Eliminating the debt-service provision will make it difficult to make necessary improvements and investments to maintain the apartment.
 - Tri-County Apartment Association: Interested in discussing potential changes to the debt service provision to reduce the impact to tenants.
 - The Ordinance requires that the seller of an ARO apartment inform potential buyers of the building's ARO status. However, not all sellers comply with this disclosure requirement, which can harm the buyer. This reflects the need for more education and/or enforcement of the ARO.
 - Cost pass-through worksheet is complicated and the amount that is allowed to be passed through is subject to hearing officer discretion and is unpredictable.
 - Issues related to pass-throughs and other Council-directed items are interrelated and need to be considered holistically.
- Tenants:
 - Debt service based rent increases are significant and result in immediate displacement, which allows the owner to raise the rent to market because of the “voluntary” vacancy.
 - The ability to pass investment risk to tenants by transferring the mortgage costs of a new purchase to tenants, regardless of specifics of the financial deal. The provision artificially inflates property values because investors, knowing they can pass on costs, may bid more than they otherwise would on the property.
 - In a debt-service pass-through, renters ultimately finance a significant portion of the buyer's investment but see none of the benefit.
 - Debt-service pass-through should be eliminated and should not be a public policy objective. There are other provisions that allow for fair and reasonable return.
 - ARO contains provisions that allow owners to address the costs of running their business but those provisions have not been utilized by owners.
- Temperature Check
 - 5 green; 2 red; 2 yellow; 3 absent.

Public Comments

- Costs can be incurred by a landlord due to tenant neglect or damage. This isn't normal maintenance and owners have to bear those costs for a year before being able to pass it on.
- Did not know about pass-through process until tonight. Would need help to follow the process.
- The 8% annual allowable increase is too high, and landlords are not using the existing pass-throughs that are available to them to help with costs associated with running the business.

- Curious that landlords are making the investment, then transferring the risk and cost to tenants. Encourages speculation.
- Debt-service pass-through facilitates sales of apartment buildings if an owner needs to divest.

Focus Questions

- Do the current debt-service pass-through provisions meet the shared principles of certainty, predictability, and fairness?
 - Owners:
 - i. Cost pass-through provisions do not meet the shared principles of certainty, predictability, and fairness because the amount that may be passed through depends on the decision of an Administrative Hearing Officer.
 - Tenants:
 - i. The pass-through provision process is predictable for the landlords, but does not meet the principles of fairness or predictability for tenants.
- Do the current debt-service pass-through provisions align with the public purposes of the ARO, including: 1) the prevention of excessive and unreasonable rent increases, 2) the alleviation of undue hardship upon tenants, and 3) the assurance of a fair and reasonable return on the value of the apartment owner's/manager's property?
 - Owners did not provide specific input on this question.
 - Tenants:
 - i. Inclusion of duplexes under the ARO would align with the public policy objectives because it would increase the ARO housing stock by 20%.

Petition, Mediation, and Arbitration Process (Discussed October 28, 2015)

The City Council directed staff to explore potential modifications to the notification requirements for notices to vacate and rents charged to tenants in properties subject to the ARO. Considerations related to this item also relate to the ARO's overall petition and hearing process, and relates to issues related to the annual allowable increase and cost pass-through provisions as well. As noted by the Advisory Committee, each of the Council-directed items are interrelated.

During the five-year time frame from FY 2010-11 to FY 2014-15, ARO staff have had over 12,100 customer interactions composed of email, phone call, and walk-in customers. In the same time period, tenants filed 819 eligible petitions. These petitions comprised 1,169 issues (each petition may have multiple issues), including excessive rent increase (included in 236 petitions), service reductions (included in 599 petitions), housing code violations (included in 193 petitions), and termination of tenancy (included in 141 petitions)

During the same time period, owners filed 15 cost pass-through petitions: thirteen for debt-service, two for capital improvements, and none for operations and maintenance or for rehabilitation. Additionally, owners filed 1,549 notices of termination of tenancy with the City (310 notices annually).

Currently, it cannot be determined whether or not the existing data reflects reality or whether there are additional housing issues, excessive rent increases, or terminations of tenancy that are not captured in the data. There was a consensus by both owners and tenant that more education would be useful.

Summary of Advisory Committee Comments

- Owners:
 - The small number of items filed by owners (notices to terminate tenancy) and tenants (petitions regarding housing problems and excessive rent increases) with the City means that there is no problem with the ARO and that the issues that the City Council or the tenants are concerned about do not exist in a meaningful or prevalent way that requires tightening the Ordinance.
 - What are the reasons owners give tenants notices to terminate tenancy (ie a no-cause termination)? If this was known, it would provide a better understanding of the issues and concerns.
 - Administrative hearing process is difficult to navigate. It takes time and energy to participate in the process.
 - City should regularly notify owners of their responsibilities under the ARO and provide more education and outreach. Lack of education and bad actors are the main issues. Consider new programs to facilitate education and outreach.
 - City should provide additional clarity about what is considered a “service reduction.”
- Tenants:
 - The lack of petitions filed does not mean the lack of a problem. It could reflect the fact that a “loose” Ordinance impacts tenants but there is nothing that could be done (for example, if a petition for an excessive rent increase falls within the 8%/21% allowed by the ARO, the petition is not eligible) or that apartment owners are not complying with ARO requirements.
 - It is not possible to discover a reason for the cause of a no-cause termination of tenancy. The ARO does not have a just cause ordinance.
 - Tenants need more education of rights under the Ordinance. Many do not know their unit is subject to ARO or their right to mediation/arbitration. Language access needs should to be considered.
 - The mediation/arbitration process is long. Consider streamlining the process.

- Scheduling hearings and responding to petitions is cumbersome because of language, work scheduling, childcare, lack of resources, fear of retaliation from owners, and other barriers.
 - Burden falls on tenants to report what they believe to be violations against them.
- Temperature Check
 - 8 green; 1 yellow; 3 absent.

Public Comments

- Apartments may need major repairs but rents may be too low to cover costs.
- Data does not support that there is a problem with the ARO.
- Number of petitions is low because the law is broken and ineffective. Ordinance does not work for tenants.
- Hearing process needs to be fair. It is too long and complicated for both owners and tenants.

Focus Questions

- For owners, what specifically is challenging about the process or ARO provisions that limit the use of pass-throughs? For tenants, what specifically is challenging about the process or ARO provisions that limit the filing of petitions?
 - Owners:
 - i. Concern that the administrative hearing process is uncertain.
 - ii. Cost pass-through worksheet is complex and difficult to complete.
 - iii. Able to recoup costs through the 8% annual allowable increase provided by the ARO.
 - Tenants
 - i. Barriers to the petition and hearing process, including the lack of knowledge and resources as well as the fear of retaliation.
- For owners, what suggestions do you have for facilitating the utilization of the cost pass-through provisions? For tenants, what suggestions do you have for facilitating the ability to file qualified petitions?
 - The Advisory Committee largely shared similar input on the utilization of pass-throughs, including increasing education and outreach for both owners and tenants, and streamlining the petition and hearing process.
- Do the current petition and hearing process meet the shared principles of certainty, predictability, and fairness?

- Owners:
 - i. Current petition and hearing process does not provide certainty and predictability to either owners or tenants.
 - ii. Hearing process is not fair for owners.
- Tenants:
 - i. The pass-through provision process is predictable for the landlords, but does not meet the principles of fairness or predictability for tenants.

Administration, Monitoring & Enforcement (Discussed October 28, 2015 and October 31, 2015)

The City Council directed staff to explore amendments to facilitate monitoring and enforcement of the ARO, and to evaluate staffing levels to effectively monitor, enforce, and analyze the ARO program. The ARO's core functions have been to: 1) respond to customer inquiries; 2) intake tenant and owner petitions; 3) liaison between tenants and owners; and 4) administer the mediation/arbitration hearing process. The ARO does currently have requirements, mechanisms, or staffing for proactive data gathering, monitoring, or enforcement of the Ordinance's requirements.

Summary of Advisory Committee Comments

- Owners:
 - Existing data does not suggest there is a problem.
 - Explore new programs for outreach and education, such as an ombudsman or community training program.
 - City should track supply and demand of housing in San Jose.
 - City should enforce against bad landlords.
 - City should not create bureaucratic systems that require additional staff.
 - Data collection could be outsourced.
- Tenants:
 - Need data on vulnerable populations.
 - Lack of data does not mean there is no problem. May be due to lack of compliance or understanding of City requirements.
 - City needs to do more education for tenants.
 - City needs to more closely monitor units to ensure compliance, enforce against bad landlords.
- Temperature Check
 - 5 green; 4 yellow; 3 absent.

Public Comments

- City should conduct a survey of rents in ARO apartments. Duplexes should be surveyed separately.
- Data is important. Should collect data on all apartments to create clear dataset. ARO apartments rent for 30-40% below market rents.

Focus Questions

- What data should the City be collecting to facilitate the monitoring and enforcement of ARO provisions?
 - Owners:
 - i. City should track supply of and demand for housing. The main issue of high housing costs is the lack of supply.
 - Tenants
 - i. Data analysis that provides context, such as homeowners/renters and demographics/specific populations like persons over 65 and students. Important to understand the needs of vulnerable populations.
- Besides data collection, what else should be explored to facilitate the monitoring and enforcement of ARO provisions?
 - Owners did not provide specific input to this question.
 - Tenants did not provide specific input to this question.
- Do the current petition and hearing process meet the shared principles of certainty, predictability, and fairness?
 - Owners:
 - i. Current petition and hearing process does not provide certainty and predictability to either owners or tenants.
 - ii. Hearing process is not fair for owners.
 - Tenants:
 - i. The pass-through provision process is predictable for the landlords, but does not meet the principles of fairness or predictability for tenants.

Termination of Tenancy - Just/Good Cause Eviction (Discussed October 31)

The City Council directed staff to explore a just cause eviction ordinance. The City's ARO does not currently have a just cause provision. For jurisdictions without just cause, the State does provide for-cause criteria for issuing 3-day notices for evictions, including "pay or quit,"

“perform covenants or quit,” or “quit” notices. These notices typically cover issues related to non-payment of rent and substantial violations of the lease agreement. Jurisdictions that seek to broaden the reasons for for-cause evictions may do so under a just/good cause program. Currently, there are fifteen cities in California with a just/good cause ordinance.

The City’s ARO currently allows for no cause terminations of tenancy. For tenants who have lived in an ARO apartment for less than one year, the owner must provide a minimum of a 30-day notice to terminate tenancy to the tenant. For tenants who have lived in an apartment longer than one year, the owner must provide either a 60-day notice plus an offer to arbitrate, or a 90-day notice. In a severe housing market (defined as a vacancy rate of less than 3%), a 120-day notice is required. The owner must also file these notices with the City. When a landlord terminates a tenancy without cause, the ARO requires that the rental increase follow the allowable rental increase provided by the Ordinance. When tenants are evicted for cause or vacate the apartment of their own volition, landlords can raise the rent up to the market price.

For both the owners and the tenants, this item appears to be one of the most important issues of this ARO process. On the apartment owner side, the key issue is how good landlords can remove bad tenants. On the tenant side, the key issue is how good tenants can remain in a stable living environment, and/or how to be protected from bad tenants. Both sides provided anecdotes to convey their concerns and priorities reflecting their perspectives. It appeared challenging for each side to reflect and to relate to the concerns of the other side.

Summary of Advisory Committee Comments

- Owners:
 - The current no-cause termination of tenancy works for landlords. A just cause ordinance is not needed.
 - Owners need a simple and expedient method to terminate their relationship with tenants.
 - Current 60 & 90-day noticing requirements are not expedient but they do allow for a simple process to terminate tenancy that provides tenants with enough time to find alternative housing.
 - Some tenants are serial problem tenants.
 - Unlawful detainer process is expensive and small owners do not have the resources to take tenants to Court. Foregone rents add to the potential cost.
 - Unlawful detainer process is unpredictable and can go on for a longer period than described.
 - It is difficult to show evidence during the unlawful detainer process to demonstrate that a problem tenant is violating lease terms.
 - Landlords take their duty of care of tenants seriously, but just cause would take away safe harbor for landlords.
 - Tenants have the power in the current system. They can delay the process, or provide landlords a short notice if they voluntarily choose to vacate the apartment.

- There are “professional tenants” who know how to move around and work the system.
- Data does not support or show that there is a problem with the current provision for no-cause termination of tenancy.
- Owners do not want vacancies. They do not have an incentive to terminate tenancy if not needed. They only terminate tenancy to protect the enjoyment of the quality of life for other tenants.
- Need to protect landlords from bad tenants.
- Tenants:
 - The current ARO does not protect tenants because it lacks a just cause provision.
 - Good tenants need stable housing. Current conditions allow for good tenants to lose their housing without doing anything wrong.
 - Most tenants are good tenants.
 - If a tenant does not vacate after being served a 3-day eviction notice or a no-cause notice to terminate tenancy, owner would still need to go through the unlawful detainer process.
 - The imbalance of power must be acknowledged. The fact that landlords own property fundamentally elevates their power over tenants, who typically rent because they are unable to be homeowners themselves.
 - Many tenants are afraid to file a petition against landlords regarding housing code violations or service reductions. Just cause provides greater certainty that landlords cannot retaliate against tenants.
 - Termination of tenancy to low-income families creates significant impact, including changing schools, loss of access to transit/commute to work, costs to move, loss of proximity to family and other aspects of social capital.
 - Some landlords terminate tenancy based on issues that would violate fair housing standards. The lack of just cause prevents knowledge of fair housing violations.
 - Court system is fundamentally biased against tenants. Easy for landlords to demonstrate proof against tenant. In the majority of unlawful detainer cases, tenants do not show up to court.
 - Insufficient community resources to assist tenants. Resources are also available to apartment owners.
 - Data does not show how often this is happening because there is no enforcement of ARO, not because the termination of tenancy is not taking place.
 - Tenants would rather move than go through the unlawful detainer process because having an eviction reported on their credit makes it very difficult to find housing.
 - Add a lease addendum that outline rights and responsibilities of owners and tenants.
 - Need to protect tenants from bad landlords.
- Temperature Check
 - 3 green; 6 red; 3 absent.

Public Comments

- Owners are trying to protect good tenants from bad tenants.
- Just cause is needed to protect good tenants from bad landlords. Would balance existing imbalance of power that currently favor landlords.
- Existing ARO works just fine. No need to strengthen, which will increase staffing costs.
- There may be unintended consequences from good intentions with just cause. Absence of just cause helps tenant, who may be afraid of retaliation from bad tenants.
- Tenants are being forced out and need protection.

Focus Questions

- For owners, what specifically would be the challenges of removing problem tenants under just cause?
 - Owners:
 - i. Unlawful detainer process is unpredictable.
 - ii. It is very difficult to meet the preponderance of evidence test in court to demonstrate that the tenant is violating the terms of the lease agreement.
 - iii. Tenants have the power.
 - iv. Financial challenges including legal costs and foregone rents
- What policies could stabilize the living situations of good tenants by ensuring their tenancy?
 - Tighten up the language to clarify “substantial violation” of a lease agreement.
- What might be potential unintended consequences or benefits of a just cause ordinance?
 - Owners:
 - i. It would make it harder to remove problem tenants and it would decrease the quality of life for good tenants.
 - ii. Just cause would create an adversarial relationship between landlords and tenants.
 - iii. Just cause would bring out the worst in tenants because it would provide tenants unilateral protection.
 - Tenants:
 - i. The lack of just cause creates unstable living situations for tenants.
 - ii. Just cause would balance out a system currently biased in favor of landlords.
- If there were to be a just cause ordinance, what should be included?
 - Committee members did not provide specific input on this question.

- How might a program be designed to protect good tenants from displacement while simultaneously allowing owners to remove problem tenants?
 - Committee members did not provide specific input on this question.
- Would a just cause eviction ordinance meet the shared principles of certainty, predictability, and fairness?
 - Owners:
 - i. Just cause would not provide owners certainty, predictability, and fairness.
 - Tenants:
 - i. The lack of just cause creates a lack of certainty, predictability, and fairness for the tenants.
- Do the current debt-service pass-through provisions align with the public purposes of the ARO, including: 1) the prevention of excessive and unreasonable rent increases, 2) the alleviation of undue hardship upon tenants, and 3) the assurance of a fair and reasonable return on the value of the apartment owner's/manager's property?
 - Committee members did not provide specific input on this question.

Summary of Temperature checks

As mentioned above, the Advisory Committee took a series of temperature checks to indicate their position on the Council-directed items. See Table 1 below. Each of the temperature check questions followed the same format, asking the Committee whether the City should continue to study income qualifications, inclusion of duplexes, modifications to the debt-service pass-through provision, modifications to the administrative hearing process, exploration of monitoring and enforcement of ARO requirements, and the creation of a just cause ordinance. Again, green means “Yes, support/continue to study,” yellow means “I have mixed feelings or I am unsure,” and red means “No, do not support/continue to study.”

Table 1: Summary of Advisory Committee Temperature Checks

Advisory Committee Seat	Income qualification	Incentive-based income qualification	Include duplexes	Modify debt-service pass-through	Modifications to Hearing Process	Monitoring/ Enforcement	Just Cause
Owner/ Manager	Green	Green	Red	Yellow	Green	Yellow	Red
Owner/ Manager	Green	Green	Red	Yellow	Green	Yellow	Red
Owner/ Manager	Red	Green	Absent	Red	Yellow	Green	Red
Owner/ Manager	Green	Green	Red	Absent	Absent	Yellow	Red
Owner/ Manager	Green	Green	Red	Absent	Absent	Yellow	Red
Owner/ Manager	Green	Green	Red	Red	Green	Green	Red
Tenant Seat	Red	Red	Green	Absent	Absent	Green	Green
Tenant Seat	Red	Yellow	Green	Green	Green	Green	Green
Tenant Seat	Yellow	Green	Green	Green	Green	Green	Green
Tenant Seat	Absent	Absent	Green	Green	Green	Absent	Absent
Tenant Seat	Yellow	Green	Green	Green	Green	Absent	Absent
Tenant Seat	Yellow	Green	Green	Green	Green	Absent	Absent
SUMMARY	5 green; 3 red; 3 yellow; 1 absent	9 green; 1 yellow; 1 red; 1 absent	6 green; 5 red; 1 absent	5 green; 2 yellow; 2 red; 3 absent	8 green; 1 yellow; 3 absent	5 green; 4 yellow; 3 absent	3 green; 6 red; 3 absent

NEXT STEPS

Staff has modified the workplan to bring recommendations for Council consideration on March 22, 2016.

- December 7, 2015: Advisory Committee meeting to receive information and to provide feedback on summary of Committee and public input.
- End of 2015: Release public draft of consultant report.
- Mid-January 2016: Advisory Committee meeting to provide input on draft consultant report.
- Mid- to Late-February 2016: Hold two general public meetings and one Advisory Committee meeting to provide input on staff's draft recommendations for potential modifications to the ARO.
- March 10, 2016: Housing and Community Development Commission to provide input of staff's draft recommendations for potential modifications to the ARO.

- March 22, 2016: City Council consideration of staff's recommendations for potential modifications to the ARO.

Given the multiple perspectives on this topic and in order to bring back consultant analysis, staff has included four additional meetings (as noted in the above timeline) not originally in the workplan approved by Council in September 1, 2015. These include two additional Advisory Committee meetings and two general public meetings to obtain input on staff's recommendations. The revised workplan ensures that both the Advisory Committee and the public have sufficient time to respond to both the consultant report and staff recommendations.

Consultant Report

The City has procured consultants to perform an analysis of the apartments subject to the ARO Ordinance. The analysis will include the following topics:

- An economic analysis on apartments under the ARO,
- Demographic and socio-economic conditions of ARO tenants,
- A comparison of ARO and non-ARO rents,
- An assessment of other ARO and non-ARO apartment characteristics - such as building quality and age.

Based on public input to utilize as much historical data possible, the consultant work was expanded to include additional Census data. The study is currently underway and it is anticipated that a draft will be available for public review by the end of 2015.

/s/

Jacky Morales-Ferrand

Director, Department of Housing

For questions, please contact Wayne Chen, Acting Division Manager, at (408) 975-4442.

Attachments: ARO Advisory Committee Meeting Minutes and Public Comments



ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE

REGULAR MEETING ACTION MINUTES

OCTOBER 7, 2015

MEMBERS PRESENT: Matthew Carney
Gustavo Gonzalez
Joshua Howard
John Hyjer
Aimee Inglis
Roberta Moore
Melissa Morris
Elizabeth Neely
Michael Pierce
Eloise Rosenblatt
Tom Scott

MEMBERS ABSENT: Elisha St. Laurent

STAFF:	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Paul Lippert	Housing Department
	Ramo Pinjic	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

(a) Call to Order/Orders of the Day—Shawn Spano opened the meeting at 6:11 pm.

(b) Introductions— Mr. Spano introduced himself and Committee Members introduced themselves, including Mr. Matthew Carney, the final tenant representative.

(c) Unfinished business from September 30th meeting, if any (Housing Staff, Facilitator)

Mr. Spano reviewed the ground rules provided at the 9/30 meeting.

Ms. Neely asked how the Committee's question will be answered. Web or in person?

Mr. Gonzalez stated that he was pleasantly surprised that only .4% of the total properties were engaged in the petition process. Average price per 1-unit bedroom as stated in the 9/30 PowerPoint seems unrealistic and outside of his experience as a real estate broker. Would like to see the actual data as to where that information came from.

Mr. Chen responded that we have procured a new data source through CoStar. Also investigating rate of change in addition to the delta between ARO and non-ARO rents.

Ms. Morales-Ferrand also responded that it's very difficult to monitor ARO rents because we've never recorded rents

Ms. Moore asked when the answers and the data that was requested at the 9/30 meeting would be provided.

Mr. Chen responded that the consultant team will be retrieving as much historical data and information from as possible.

Mr. Pierce asked if the Committee be able to see the reporting data before the report goes to the City Council. And, should we wait for the consultant's report?

Ms. Inglis stated that data is important and that additional data is available through the Census. Committee should patiently trust the process. The City Council asked the group to address the problem so the Committee should take the issue seriously rather than question whether or not there is a problem to address.

(d) Presentation and discussion on the inclusion of a requirement for income qualification of tenants in the ARO (Housing Staff, Facilitator)

Ms. Morales-Ferrand presented information on the Council referral to explore creating an income restriction for ARO units.

Public Comment

Owner: If this unit is still mine, why would you control tenants?

Tenant: Of the two proposals, bedroom median income cap will allow more people into units. Seems like a lot of work for both parties. Harms tenants who are trying to save money to get ahead.

Owner: Small landlord, runs own property. Costs a lot of money to get a new tenant. If tenant exceeds maximum income who is going to evict? Who is going to get taken to court? It is expensive to run apartments. Income is based on how long/hard people work. Shouldn't discourage hard working people.

Owner: Income qualification sounds like communism. Goal seems to be to turn ARO buildings into public housing and owners don't have the ability to opt-out. Totally unfair.

Owner: Rent control ordinance is unfair. Units are smaller and older apartments which are purchased by hard working people who are not rich. He and his wife work really hard. This ordinance punishes small owners. Running public housing on backs of small business owners

Owners: Small rental property owner in San Jose. Concern about income qualification of tenants. Put tenants in fear of eviction if they work more. Hard for them to stay local and work harder.

Owner: Advocates have heartfelt stories about the hardships that exist. Owns duplex. Against income qualifications because it won't fix the problem and it will be a lot of work for owners. Income assumptions set at 30% but nationally it's 50%.

Tenant: Questions that are unresolved? Consequences of misrepresenting income? Consequences of renting to a tenant who wasn't qualified? Delays in retrieving data? What if income cannot be proven? May be consensus that this process doesn't serve the interests of the community.

Tenant: Senior affordable housing in Willow Glen. People are living on the edge from social security, disability. Asking landlords to please understand the impact of receiving 8% rent increases. Thinks there should be a test for landlords who want to increase rents.

Owner: Concerns with the idea and implementation of income qualification. What happens when household size changes? Tenants should have privacy of their information and how will owners verify information? Walk away from this idea.

Owner: Against income qualification. Issues with implementation. Firmly against the idea that government should increase staffing based on its own program

Owner: Surprised that someone would propose this. Finding tenants is hard enough as it is. Likely discrimination lawsuits. No need to add additional burden to the landlord.

Care about privacy information. Income qualification becomes a kind of discrimination. Very difficult for landlord to verify income, especially when incomes vary.

Owner: The City is discriminating against people with money. Should have been vetted by legal department before discussed. Four new staff means more pensions.

Owners: landlords have a right to manage their own personal property and this system will force landlords to take less qualified or lower quality tenants

Tenant: Is not bothered by the “attack” on the rich idea. What’s unfair is expecting 8% returns every year.

Owner: Tenants rights group has a point. It’s very difficult to make money in San Jose. None of the AROs are means tested. What is being presented is solving a social problem on the backs of 400-500 people.

Committee Discussion

Mr. Pierce: landlords are already providing a public subsidy – it’s just not funded by a public entity. If looking at marginal price – the lower you allow the price, the longer the tenants stay which reduces the units available. If someone’s income jumps, what if they’re no longer protected under rent control. Then no need for City staff. Over time it would allow more units to rise faster.

Ms. Moore: The income qualification was intended to prevent abuse and keep units available for those who need it.

Ms. Rosenblatt: Sympathetic to concerns of owners. Has experience with income qualification as a lawyer. People lie in their court documents under penalty of perjury and she’s sure they’ll lie or underreport income to owners.

Ms. Morris: Rent control is good to prevent displacement of long-term and in-place tenants. Because tenants have stability in their housing they may be able to build wealth for education, savings, etc. Looking at income qualification, it doesn’t reach the goal or purpose of the ARO.

Mr. Scott: City has 17,000 affordable units. BRM has many formulas. We aren't serving enough of the very low income people. Most affordable units go to people with higher income. Wonders how many people means test out of affordable housing. Lowering the allowable rent increase isn't going to solve the main problem of someone not being able to afford rent.

Ms. Inglis: Means testing associated with ARO programs is a solution looking for a problem. Median household income for low income tenants – won't statistically have a lot of tenants. Non-issue. Reiterate point previously: ARO is best at anti-displacement for in-place tenants. Can't have vacancy control so we can't really look at rent control as an affordable housing policy.

Mr. Hyjer: Income restriction is for existing tenants because when the unit becomes vacant, the unit goes to market. Mr. Pierce's suggestion allows landlords of units with tenants whose income grows, to recoup more in rent because the tenant no longer needs the assistance that they once did. Means testing helps in that way.

Ms. Rosenblatt: Lives in a 40-unit complex. Some units set aside for seniors on fixed incomes. When building was purchased by new owner, those units were eliminated. Wonders if that requirement exists to set 10% of units aside.

Mr. Hyjer: Depends on the type of program that the building owner was participating in. Possibly a bond restriction or a program that was part of the deed.

Mr. Gonzalez: His tenants are low income families. The real answer is added supply of below market rate units. We should incentivize Mr. Hyjer's company to build more below market rate units.

Mr. Howard: Rent control is an affordable housing program but the subsidy comes from a private owner, not the government and the subsidy is tax free to the recipient. People who need the help are those with less than \$100k. We need to have a better understanding of who lives in these units to ensure that people are receiving the help they need. Maybe means testing is done with an incentive to landlords to rent to tenants who are earning a certain percentage of median income.

Ms. Neely: How are incomes tied to rent increases under income restriction? Can income fluctuate in an income restricted program?

Ms. Inglis: Helpful if we could scale back rhetoric. Rental subsidy programs exist. Rent control is not a subsidy program.

Mr. Pierce: Important to note that income qualification could remove the incentive for a higher income person who is receiving a subsidy for their rent that they don't need. If the rent restriction is removed, the tenants rent can grow and they can move out and have the unit available to the lower income tenant.

Ms. Rosenblatt: Doesn't have a problem with a means test, but wonders if there is a means test and monitoring that owners would even like.

Temperature Check: **Should the City continue to explore developing an income qualification model for the ARO?**

Yes: Howard, Pierce, Scott, Moore, Gonzales

Unsure: Carney, Neely, Rosenblatt
No: Morris, Hyjer, Inglis

Mr. Howard: Recommendation: **Should the City explore an incentive based income qualification program?**

Yes: Gonzalez, Rosenblatt, Moore, Scott, Pierce, Howard, Carney, Hyjer
Unsure: Morris
No: Inglis

(e) Presentation and discussion on the inclusion of duplexes in the ARO (Housing Staff, Facilitator)

Mr. Chen presented information on the potential inclusions of duplexes under the ARO.

Public Comment

Owner: Duplexes today are \$1M, which requires about \$4,000 a month or \$2,000 a unit. These units are older and won't last long. \$1750/month for his units.

Owner: Reality is that adding restrictions to the easiest type of property to occupy. These properties are already losing money in these markets, which means that owners will re-occupy these buildings. Big displacement risk.

Owner: Problem with voting process on previous item. Roll call voting influences people voting later down the line. Photos were taken of vote. Thinks photos will be sent out which could cause people to be attacked.

Tenant: City Council posts their votes publically so no issue with voting. Should include duplexes in the ARO. Previous conversation: if all of a sudden renters are forced into higher rent units they'll lose the savings they had created.

Owners: Small landlords own duplexes. They are working class and they will have to work very hard. Have to work hard to attract tenants. Squeezes owners. Small owners are struggling just like tenant.

Owner: Two duplex owner, worked very hard to own duplex without subsidy from government. Doesn't increase rent very much ~\$50/year? Encourages people to keep units out of the market.

Tenant: Why were duplexes originally excluded from the original ARO? The impact of a rent increase for

Owner: Previous owner of duplex owned debt-free. She paid \$850k and property tax is very high. Those costs are before improvements. When they bought the unit the property was not under rent control.

Owner: Owns a duplex – opposes rent control – why can duplexes be included now if it was originally excluded?

Owner: Sold a duplex for 500k that was generating \$43k a year in operating income. After taxes and improvements, income goes away.

Tenant: Duplexes should be included. Not enough affordable housing in San Jose. How could people ever become to owners without saving money? 2/3 are landlord occupied – need an answer.

Owner: Lives in San Jose for 20 years and owns a duplex. Housing shortage is about supply. Rent control won't solve the supply problem. Rent control restricts housing supply. Not a healthy system, like San Francisco.

Owner: Property manager for duplexes. Very difficult to make a profit.

Owner: Owns duplex. Shortage of housing drives rents up. Lots of people who need help. Every tax payer should contribute, not just a small percentage of population. Willing to sell unit to City for them to rent to tenants.

Committee Discussion

Mr. Howard: Asked if there been a legal review as to whether this was legal under Costa-Hawkins.

Ms. Inglis: Questions on Costa-Hawkins. SF could only apply it up to 1979.

Mr. Hyjer: When scrubbing the data, pull out the number of owner occupied units.

Ms. Moore: Including duet homes and duplexes would discourage single family homeowners from building units over their garages or from adding density to property. Creating a rental regulation for those units would discourage those additions which is a city goal.

Mr. Scott: Against adding small properties under rent control. Recent immigrants often look at these properties to move their families in.

Mr. Pierce: Liberalizing planning process to include granny units is a way to expand the housing stock. Should not hurt that building type by regulating duplexes.

Mr. Howard: Concerns about data available. The Committee has very meaty issues to take up. Not sure this is an issue that merits addressing. Recommended doing a temp. Check now about whether to take the issue up at all.

Mr. Morris: In favor of including duplexes. Issue is significant and shouldn't be treated lightly.

Agenda item will move forward under unfinished business.

(f) Open Forum

Owner: data is critical to make good decisions. If you look at 5 years ago, so many people lost their jobs and homes because they could not afford to live here. Comparing best and worst time.

Owner: In America we insist that we have equal opportunity for all. Rent control decreases the opportunities for those who are looking for housing which is not fair. Those who are supporting rent control.

Owner: More and more people cannot afford a place to live. Problem is supply and demand. Communism failed for a reason. SF has high rent for a reason.

Owner: When you buy a property you get a silent partner in the United States Government. Bought small building built early in the 1900s through a loan. Properties are becoming gentrified. Shouldn't have invested in them.

Tenant: Regulations don't cover new construction so granny units don't count. Nothing stops landlords from passing through reasonable costs.

Tenant: More balanced discussion. Rent control has been working for a long time. City Council stays working for a long time until people are ready to vote.

Tenant: If the tenant's income is relevant the landlord's income should be relevant as well.

Investor/Realtor: Housing shortage is an issue. Rent control is a disruptive policy – lose-lose for renters and owners. Less incentives for investors to engage. Less incentive for landlords. Lower quality housing for City.

Tenant: Rents a condo with a decent landlord. Neighbors are having to leave due to rent increases of \$300-\$350 a month. Housing shortage is real. One moved away and another has moved in with family. Serious problem.

Tenant: People are suffering under high cost of housing. This body isn't making decision about building more housing, it's supposed to discuss rent control.

Owner: West San Jose: Free and fair market is the best solution for the City. Don't make it more difficult to find housing.

Owner: Increase supply through zoning regulations by making subdivision easier. Build more public transportation so that people can more

Owner: Rent control doesn't limit supply. Adding duplexes into supply is a good thing. We don't need more buildings without restrictions.

Owner: Keep it simple. Too complicated with too many creative issues. Simplify the program and the process. Open to rent control and willing to work through it.

Public member: remind everyone that before just cause evictions is in place there will be many evictions. Landlords and tenants are not enemy so all should work together.

Tenant: Advocate for tenants and the homeless. Strongly believe that means testing needs to stop unless landlords are being means tested at the poverty line for rent increases. Just cause is important and we need it.

Owner: Questions aren't answered. Concerning to know that City can't put its finger on data on duplexes. Owners are willing to keep rents low to keep good tenants.

(g) Adjourn

Facilitator Shawn Spano adjourned the meeting at 8:55pm.



Public
Discussion:
Updating the
ARO
Apartment
Rent
Ordinance

Discusión
Pública:
Actualización
de la ARO
Apartamento
Ordenanza de
Arrendamiento

Share Your Comments Comparta sus comentarios

Item # _____
Número de artículo

SOME LANDLORDS HAVE SAID RENT CONTROL ONLY
AFFECTS A RELATIVELY SMALL NO. OF RENTALS
IN BUILDINGS BUILT & RENTED BEFORE 1979 SO,
WHY KEEP IT FOR A DWINDLING MINORITY OF
UNITS

I AGREE, RENT CONTROL IS TOO LIMITED. THE
ANSWER IS TO EXPAND IT TO INCLUDE MANY
OTHER UNITS & INCLUDING DOOR EXITS IS A
STEP IN THE RIGHT DIRECTION SO THAT ~~RENTED~~
CONTROL WILL EVENTUALLY REPRESENT over continuado
MORE THAN A DWINDLING MINORITY & WILL AFFECT

OR send your comments to o envíe sus comentarios a MORE WHO NEED IT!
Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PRINT CLEARLY

IMPRIMIR CLARAMENTE

Name Nombre : _____

Email Email : _____

check all that apply marque todo lo que corresponda

☐ I live at an ARO apartment

Vivo en un apartamento alquiler ordenanza.

☐ I own or operate an ARO apartment

Soy dueño o opero un apartamento alquiler ordenanza.

☒ I am a member of the public. Soy un miembro del public. A SR. CITIZEN

Share Your Comments Comparta sus comentarios

Item # F
Número de artículo

- Rent Control is a discriptive policy
to the economy → unintended consequences
- lead to more shortage
 - less incentive for investor to build more housing in SJ
 - defer more maintenance for housing community
 - will destroy large portion of a city's housing
 - It's lose lose proposition
 - we are not resolve the issue ^{over continuado} of housing shortage!

OR send your comments to o envíe sus comentarios a
Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PRINT CLEARLY

IMPRIMIR CLARAMENTE

Name Nombre : [REDACTED]

Email Email : [REDACTED]

check all that apply marque todo lo que corresponda

- ☐ I live at an ARO apartment
Vivo en un apartamento alquiler ordenanza.
- ☐ I own or operate an ARO apartment
Soy dueño o opero un apartamento alquiler ordenanza.
- ☐ I am a member of the public. Soy un miembro del publico.

Share Your Comments Comparta sus comentarios

Item # F.
Número de artículo

- rent.
- ① We must find a solution for affordable
 - ② ~~The right solution is to increase apartment~~
 - ③ The reason is supply limit-
 - ④ Two solutions: Communism and Capitalism
 - ⑤ Communism will not succeed.
 - ⑥ Capitalism is a good solution
but
Loose restriction and let as over continuado
build more apartments

OR send your comments to o envíe sus comentarios a

Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PRINT CLEARLY

IMPRIMIR CLARAMENTE

Name Nombre: [REDACTED]

Email Email: [REDACTED]

check all that apply marque todo lo que corresponda

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Vivo en un apartamento alquiler ordenanza.

☒ I own or operate an ARO apartment

Soy dueño o opero un apartamento alquiler ordenanza.

☐ I am a member of the public. Soy un miembro del publico.



Public
Discussion:
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Rent
Ordinance

Discusión
Pública:
Actualización
de la ARO
Apartamento
Ordenanza de
Arrendamiento

Share Your Comments Comparta sus comentarios

Item # _____
Número de artículo

The rent increase trend is due to high demand. The solution is to build more affordable house. Not the rent control.

over continuado

OR send your comments to o envíe sus comentarios a
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Item #

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- Rent Control does not work
- RC for 1977 and earlier is
not fair

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Item # D
Número de artículo

WHY IS ADDITIONAL BURDEN
PUT ON ~~TENANT~~ LANDLORD?
IN DETERMINING INCOME
QUALIFICATION.
ITS LIKE ADDING INJURY

over continuado

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Item #

d, e

Número de artículo

d Against 'Income qualification'

e No Duplex ARO

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d, e

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d

d Against "Income qualification"

e No Duplex in ARO

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d Against 'Income Qualification'

e No Displex in ARO

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Item # E
Número de artículo

Questions about why

duplexes originally left
out of regulation?

IF WE ARE EXPANDING

THE EFFECTED STOCK WHY NOT

STUDY 79-95

over continuado

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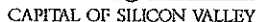
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Item # 1
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We say yes to equal opportunity
 sy No to rent control.

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Item #

Número de artículo

F

Sean
Wayne:

Final statement

I find it disconcerting to
ask for general comments from
the floor before discussion
by the committee

(Do not) Conversion of garage

over continuado

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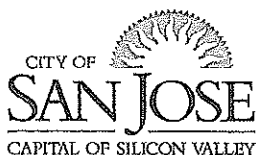
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Item # C
Número de artículo

CONCERNS ABOUT DEBT
SERVICE PASS THROUGH.

What is to stop sales to
controlled interest or to a
syndication?

I am worried that tenants are
covering the costs of what is
essentially a debt restructuring

over continuado

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Item # _____
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means test

*If one on medicines how are
I govt funds counted?*

over continuado

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ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE
REGULAR MEETING ACTION MINUTES
OCTOBER 14, 2015

MEMBERS PRESENT: Matthew Carney
Gustavo Gonzalez
Joshua Howard
Aimee Inglis
Roberta Moore
Melissa Morris
Elizabeth Neely
Michael Pierce
Eloise Rosenblatt
Elisha St. Laurent
Tom Scott – arrived at 6:11

MEMBERS ABSENT: John Hyjer

STAFF:	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Ramo Pinjic	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

(a) Call to Order/Orders of the Day—Shawn Spano opened the meeting at 6:06pm.

(b) Introductions— Mr. Spano introduced himself, committee members introduced themselves, and members of the Housing Department introduced themselves.

(c) Unfinished business from October 7th meeting, if any (Housing Staff, Facilitator)

Mr. Chen presented information on the inclusion of duplexes in the ARO.

Focus Question: Is the inclusion of duplexes consistent with the goals and purpose of the ARO?

Mr. Howard asked if the number of duplexes presented were in San Jose proper, or in unincorporated county pockets were included in the dataset.

Mr. Pierce asked for clarification on whether a single family home that has a granny unit added to it would classify it as a duplex.

Ms. Morales-Ferrand answered that it would not.

Ms. Morris explained that neither new construction nor any changes to a single family home residence would be allowed to be restricted by rent control under Costa-Hawkins.

DRAFT

Mr. Scott –How would you treat an old house with two units that was never permitted?

Mr. Pinjic answered that if the property was rented for more than 30 days it would be subject to rent control.

Ms. Moore asked if duplexes would be allowed up to 1995 and how many units were built before 1979.

Ms. Morales-Ferrand answered that the City is allowed to go up to 1995 because duplexes were never exempted, and instead were originally excluded.

Ms. Inglis answered that in San Jose the majority of duplexes were built before 1979.

Ms. St. Laurent asked if the conversion of a single family home to the addition of a duplex was a zoning question.

Ms. Morales-Ferrand answered that the addition of a new unit to a single family home would be not trigger rent control

Ms. Morris answered the focus question to say that yes, the inclusion of duplexes in the ARO does meet the goals and purpose of the ARO because the inclusion significantly helps San Jose families by increasing the number of units available by up to roughly 20%. The inclusion of duplexes is allowed under Costa-Hawkins.

Ms. Rosenblatt added that in the New York Times ran a piece this morning speaking to the housing crisis in Oakland and that she hoped that we would have a sense of neighborliness in San Jose. Citing a statistic – 65% of people nationally own their own homes, but ownership rate in the bay area is 54%. She believes that broadening the availability of the ARO to duplexes is consistent with the goals and the mission of the ARO.

Mr. Gonzales noted that he was concerned that the 43,000 universe of ARO units did not include the number of exempted uses/units. One of the unintended consequences of including duplexes will be that owners will raise the rents as a knee-jerk reaction to the new restriction and families will be out on the street.

Ms. St. Laurent: Believes that the inclusion of duplexes in the ARO is consistent with the goals and purpose. The Housing Authority has a huge backlog of people in need because people can't afford rent. That number will grow if we don't cap rents now.

Mr. Pierce agrees with Ms. St. Laurent but is concerned that ARO does not add another unit to the housing stock because those units are already occupied by people, whether there is a restriction or not. We need to build more housing and new units.

Ms. St. Laurent said that the City is building thousands of homes right now and it's not enough. Neighborhoods are gentrifying now and rents are out of reach for lower income individuals and families.

Ms. Morris pushed back on the dichotomy between increasing supply and preventing the displacement of tenants through rent control provisions, when both can be accomplished. The City needs protections for tenants as much as it needs new supply.

DRAFT

Mr. Scott stated that if we're asking ourselves to consider and find consistency with the goals of the ARO from 1979 then we should leave the ordinance the way it is because they were excluded to begin with. Believes inclusion of duplexes is a bad idea because the product is too much like single family homes.

Ms. Moore said that there are short and long term impacts. SF has had rent control for a long time and it doesn't have housing available for its service workers. People think that landlords are greedy but she bought her building in 2010 and it won't make money until 2025. Raised a fairness question about owners who purchased a duplex without a restriction but will be forced to sell a depressed property because of the new income restriction.

Mr. Carney said that from the perspective of the families he works with who are often in crisis and moving out of the city. Landowners are part of the community and shape the way the community could look in the years ahead.

Ms. Inglis said that part of the original intent to carve out single family homes statewide was because the product was owned by small time landlords. Today many single family homes and duplexes are owned by larger investment corporations. Including duplexes would be consistent with the original intent of the ARO. 1,500 of the current duplexes are owner-occupied. Of sales of buildings in San Jose, 198 were duplexes which raises the question of speculation.

Ms. Morris clarified that the analogy used previously about selling a property under rent control controls the rent amount or sale price is overstated due to the inclusion of vacancy decontrol.

Ms. Moore stated a concern that if we squeeze the small investor too much by adding restrictions they will sell to large investors. Would like the following question answered: What is the size of the investor that's investing in duplexes?

Mr. Scott said he works with a lot of small investors and he often sees small owners who don't always keep their buildings up but they do keep their rents low. Adding restrictions will trigger landlords to raise rents before the restrictions are in place.

Mr. Howard asked staff if the number of calls from duplex residents are currently being tracked. Stated that the real issue is that adding duplexes doesn't add one new unit of housing. Adding duplexes up to 1995 creates a two-tier restriction system in the ARO because buildings of 3 or more units are already restricted by the 1979 ceiling. Shouldn't do anything to dissuade investment. Not sure that including duplexes is legally consistent with Costa-Hawkins.

Mr. Gonzalez said that he's never seen a large investor come in and look for duplexes as investment properties. Families buy the units and including duplexes takes away the American dream. Concerns about data, specifically about rent amounts.

Ms. Moore: Slide 9 – question about number of staff that would be needed to monitor duplexes. Can that money go to building more affordable housing?

Ms. Neely is a renter downtown and is paying \$1800 for a studio. Rents aren't necessarily overstated because submarkets differ in price.

DRAFT

Ms. Morris wants to focus on the inclusion of duplexes. Hearing that some landlords will leave the market if duplexes are included but then there are landlords who voluntarily keep rents low. Wonders if a limitation on rent increases would impact a good landlord's decision to keep rents low. Renter protections need to be expanded and some of those renters live in duplexes.

Mr. Carney is a renter in a complex around 100 units, where rent is just under \$2,000 a month. Agrees that rents aren't being overstated.

Mr. Pierce offered that there is a split market in San Jose with ARO units and market rate units. Development costs to build new market rate construction is high, which is one of the drivers of rent. Is hearing that there is consensus of a problem in the housing market. The issue is about who should pay for the solution. Everyone here wants to help.

Ms. Moore offered that she has three priorities as a building owner: cash flow, stability, and operating a clean and safe building. Responding to Ms. Morris' comment that ARO does not impact good owners but it does impact bad owners. ARO impacts all owners negatively. Agrees that the City needs to go after slumlords, but adding restrictions on top of old restrictions doesn't help that effort.

Mr. Carney, in response to Mr. Pierce's comments: renters need consistency in how much the rent can be increased, not necessarily a supplement to pay rent. When unexpected rent increases happen people are displaced.

Ms. Inglis said that she's excited to talk about rent control. Investment in single family homes is not related to this. Believes that rent control would do a better job regulating if there weren't so many carve outs.

Mr. Scott predicts that small owners will leave the market if duplexed are included under the ARO.

Ms. Neely said that if we believe that good owners naturally keep rents low and there wouldn't likely be a behavioral change with inclusion in the ARO, then what is the big impact?

Mr. Pierce offered an example of health care/employment costs that impact a management company's bottom line and that the ARO may not have the flexibility to cover their annual cost of doing business.

Ms. Moore said that adding duplexes really hits the mom and pop investors.

(d) Presentation and discussion of Consultant Scope of Work, including background information, contextual information, financial outcomes and fair returns (Housing Staff, Facilitator)

Mr. Chen presented information on the scope of work for the consultant. (Roughly 7:20pm)

PUBLIC COMMENT

Owner: Key issue is asking rent and actual rent.

Owner: CSJ Rent Control is 36 years old. Discussion here is drastic change and impacts property owners and values by reducing rent incomes and may push owners out of existing market.

Owner: Is formal notice to owners necessary? Called out of order.

DRAFT

Owner Advocate: Danger of rent control taking unit off the market until economic upturn. The economic study should consider if units were left vacant during economic downturn.

Owner: Question – how will the consultant’s work and the advisory committee’s work will be weighed against one another as the work is presented to the City Council. Vacant units are big concern for owners. People will learn how to game the rules on both sides of the aisle.

Owner: Many people are requesting more information but people are meeting and voting on items prior to data being available. Asking rents and actual rents are very different and many small landlords don’t post rents on websites. Asked landlords in audience to provide rental data to check the information from the consultant.

Owner: Slide 17 – turnover. Analyze voluntary turnover as opposed to non-voluntary turnover. Add to analysis: impact fees and other development fees on cost of business.

Owner: Focus on age of units. Older units are closer to the end of their life and have larger capital costs. Need accurate sample of rental housing to be statistically representative.

Tenant: Lived in ARO unit for 15 years without a rent increase. During the economic downturn many people made homeless.

Owner: Compare the # of ARO sales transactions v debt service petitions: In analyzing income property, you look at the rent rolls to understand if the building is depressed. Concern over duplex inclusion.

Owner: Rent control isn’t new but new studies refute the effectiveness of rent control. Consultant should do empirical study. Should also look at the period after the dot-com boom. Rents dropped 30% after bust and took 10 years to return to pre dot-com rents.

Owner: Whose hiring consultants and what is their objective? What is the cost of the study? Results should be published before the next Council meeting.

ADVISORY COMMITTEE

Ms. Rosenblatt: interested in knowing what the turnover has been and how that impacts rents. Interest in desirable tenants – who are those tenants and which groups are being displaced? Where are they moving?

Ms. Moore: Requests that consultant look back to 1999 with a market condition overlay, including interest rate, vacancy rate and employment. Also, age of owners. ARO units only: % increases, # of increases, cause for evictions that were no cause

Mr. Gonzalez: Provide petition information and statistics.

Ms. Inglis: add in the cost of displacement and/or homelessness if possible.

Mr. Scott: Fair returns: important to look at outcomes of other cities with AROs. How does a consultant determine what a fair return is for an owner?

DRAFT

Mr. Pierce: Task 3 – interesting and relevant if there was a correlation between for-sale and rental housing; length of ownership and age of property (property tax rates); impact on smaller properties which are self-managed and have lower costs – need to try and disaggregate. Slide 20: appreciation is vacuous because it isn't realized until the property is sold, which raises the cost base.

Mr. Howard: task 1 & 2: important to look at market rate rents and in place rents, how to do an economic analysis on property values under ARO when rental income is reduced, including assessed property value; changes over time in the properties under ARO with tenants.

Ms. Rosenblatt: wonders if consultant will do any research on zoning and available areas for development.

Ms. Morris: consultant scope is very ambitious. Wonders if consultants will be looking at household size, children in the HH and persons with disabilities. Will there be any data on the rent burden

Mr. Gonzalez: Debt service needs to be factored in as do interest rates. Data is going to impact how committee will think and feel about annual increase conversation. Conversations without data are uninformed. Panel should have alternate members to account for when people aren't available.

Mr. Chen and Ms. Morales Ferrand explained that the upcoming meeting on Annual Allowable Increase will be a discussion of the standards, not a decision on what the rate should be.

Ms. Moore: Look at age of building.

(e) Open Forum

Owner: Number one issue is displacement and providing people a consistent and predictable rent. City is landlord but they don't own property.

Owner: Feels sorry for people who are being evicted but rent control doesn't solve problem. If owners lose money – costs are increasing – owners will have to increase rents for new tenants or they will sell the unit.

Owner: Small property owners from San Francisco, costs are increasing. Salaries are increasing so owners should be able to increase rent. Need 8% to cover cost of properties. Retirement investment.

Owner: Broker for 45 years. Question for committee: does anyone who believes inclusion of duplexes own property?

Owner: Mother with full time job and small landlord. Treats tenants as a customer, with customer satisfaction is highest priority. Rental agreements should be between landlord and tenants – not government.

Owner: Landlords should be notified of this process. City should notify all landlords.

Owner: Rent control should be responsive to market downturns.

DRAFT

Owner: Affordability issue is real but rent control is not the solution. When there are 100 people and only 50 units there will always be an affordability problem.

Owner: Rent control is already fair. Bought run-down property and spent his own money to bring the units up. It will take 5-7 years to bring rents up to a reasonable level and knows that in the long run he'll make a profit. Had SF ARO property and could never raise rents.

Owner: Fair rent control now. Without control, wild fluctuations happen like in MV. With strict rent control, owners can't afford to maintain properties. San Jose's rent control ordinance is just right.

Tenant: Need housing. Solution is rent control. Landlords are evicting people because of market prices. Why no relocation?

Owner: Lives in Los Altos. Economist and Engineer. Rent control is bad public policy – doesn't control rents. Also a lawyer – just cause evictions gives tenants too much leverage.

Owner: Property manager for 8 years. Works closely with HUD VASH and Bright Future program. Existing landlords may not rent to disadvantaged tenants under new restrictions.

Owner: From San Francisco. Envious of SJ rent control. Flexibility is important. Politicians should not make economic policies. Politicians sensationalize evictions.

Tenant Advocate: Housing crisis is real. Since 2010 rent increases are going on. Free markets only exist when there are regulations that exist. Regulations are lax in San Jose.

Owner: Why now? In business you need some level of predictability. Lowering the annual allowable increase reduces predictability. What is the motivation behind Councilmember Perez's proposal?

Owner: Big question is will the questions posed be sent to consultants. Why don't we ask ARO owners to provide their rent rolls?

Owner: Important to differentiate between ARO and non-ARO. Costs to duplex: increases over two years – roughly 7.5% increase over three duplex properties.

Owner: Issue of granny units/second units. Sold older home with detached garage – everything to code. City determined that the dwelling was unlawful. City should look into code enforcement of granny unit.

Owner: Bought duplex in San Jose a year ago. One unit was neglected. Invested to repair both units. Families moved into the units and one started a business. Won't buy a second duplex in San Jose.

Owner: Reports on rent control state that regulations only benefit the existing residents. This displaces future residents who can't afford to live in the area.

Owner: Fair value of rent increases is really the real return of the owners hard work. Rent control is a socialist policy. Destroying the fabric of free enterprise.

DRAFT

Owner: Was a social worker for many years. Keep an open mind to learn from the real estate experts. Duplexes are owned by mom and pops. If included, should have a sunset clause triggered by vacancy rates.

Tenant: Has three jobs. Housing crisis is real. People are living in the streets and in their cars. Evictions without cause are happening.

Owner: Agent in San Jose. Works with a lot of property owners. Duplex owners manage properties themselves and more restrictions will destroy American dream.

(f) Adjourn Facilitator Shawn Spano adjourned the meeting at 8:38pm.



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With thousands of people in San Jose living
on the streets, in cars, tenants getting
eviction notices w/o cause - except for
dollar signs in the eyes of the landlords
we cannot afford to wait to implement
a strong rent control. Tenants in a downtown
rent controlled unit are facing evictions
after going through channels to try to
change uninhabitable living conditions
with their landlord - he turned around and
over continuado

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served them with evictions - because
tenants have very little actual
protections. These tenants and
many more like them are afraid
to speak up - they live in
uninhabitable apartments with
safety hazards and still afraid
to complain so that they
don't get evicted, left without
anywhere to go

thank you

gracias

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- ☐ RC on the rent increase value is going against the prosperity of SJ economy.
- ☐ 93% of 464 economists surveyed said 'A ceiling on the rents reduces the quality and quantity of housing available. (1992 issue of "The American Economic Review")
- ☐ With RC, your children will have trouble to find a house to live in. Review over continuado

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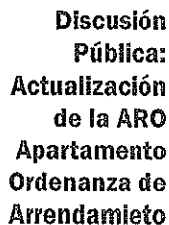
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Item # _____
Número de artículo

Share % increase of
our expenses is 7.52%
to 8.91%

over continued

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Item # 12
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~~The next is to~~ Why now?
Why change a 36 year old ruling?
would like to understand the
motivations and statistical evidence
behind Mr. Peralez proposal.

over continuado

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Item # 45
Número de artículo

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Analyses include ^{allow flexibility} market, population change, ^{simplify} (baby boomers)

Rental business s/b simple

- limit litigation

- more rules more lawsuits

Top priority - keep regular turnover = balance

Consider temporary conditions

Inform public on rental data to prevent political
sensationalism → ^{balanced} wrong policies.

over continuado

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- ① Rent control is bad public policy as it not only fails to solve the problem, but also makes it worse — suppressing the supply
- ② It is unfair — likely a Taking — to let small investors/landlords pay the subsidies and get penalized
- ③ tenants will suffer further — landlords will become very picky in selecting tenants
- over continuado

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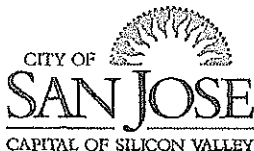
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Item # C
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After the two years lease, tenants are able to raise rent increase, but tenants can't bring a roommate, the question is, why a tenant can't have no force to follow the original lease, but tenants are? why tenants can't bring a roommate?

Looks like San Jose Law are design to oppress tenants, and to gives landlord all the power

I don't want a tenant have the **over continuado** right to move out!

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Item #

E

Número de artículo

IT IS POSSIBLE TO BUY BLIGHTED PROPERTY
AND FIX IT UP AND GET A FAIR RETURN
IF SAN JOSE'S CURRENT, FAIR RENT
CONTROL. IT MAY TAKE 5 TO 7 YEARS TO
GET THE RENT UP TO MARKET, BUT
EVERYONE BENEFITS. IF RENT RAISES
WERE SIGNIFICANTLY REDUCED, IT
WOULD NOT BE ECONOMIC TO FIX
RUN DOWN ARO PROPERTIES.

over continuado

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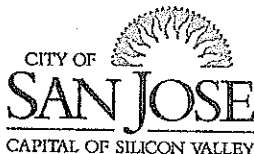
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- RECENTLY WE BOUGHT A SEVERELY RUN DOWN BUILDING. WE PUT \$100,000 INTO MAKING THE UNITS MEET CODE ENFORCEMENT REQUIREMENTS. RENTS WERE AT 50% OF MARKET.
- IT WILL TAKE 5 OR 6 YEARS MINIMUM TO BREAK EVEN, BUT THE NEIGHBORHOOD WILL BE MUCH BETTER & RESIDENTS WILL HAVE A HOME WORTH LIVING IN.
- WITH LOWER ALLOWABLE RENT RAISES, THE PROPERTY WOULD CONTINUE TO DETERIORATE.

thank you

gracias



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Item # E
Número de artículo

SAN JOSE HAS A FAIR RENT CONTROL
ORDINANCE. WITHOUT CONTROL WILD
FLUCTUATIONS OCCUR LIKE IN MTN VIEW.
• WITH OPPRESSIVE LAWS LIKE SAN
FRANCISCO UNITS CONTINUE TO
DETERIORATE. OWNERS CANT AFFORD
TO MAKE NECESSARY REPAIRS.
• WITH WATER, ELECTRICITY, REFUSE COSTS
RASING RAPIDLY, OWNERS NEED TO
BE ABLE TO MAKE REASONABLE
RENT INCREASES

over continuado

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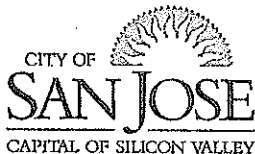
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• SAN JOSE'S CURRETT LAW IS JUST RIGHT. IT PREVENTS RAPID RISES IN INFLATIONARY TIMES, BUT LETS OWNERS RECOVER THEIR INCREASED COSTS IN A REASONABLE MANNER.

thank you

gracias



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Item # 17 E.
Número de artículo

RC do not solve the inventory
problem.

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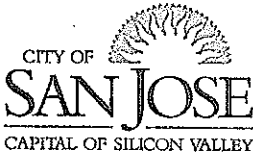
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Item # D&E
Número de artículo

The property owners are.
We're small investors, not rich ppl. we work really
hard to be able to put money in for potential gain.
and lots of us are negative on the spreadsheet. It's
gonna be horrible if RC is happening, as the cost is
going up, the owner will lose more money, and less
ppl would buy property. Nobody would get in a
loss business.

over continuado

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- keep rent low w/ no worry, one day ^{the owners will be forced} ~~if need~~ to increase the rent ^{to cover} ~~when~~ the cost increase, not upon needs, every yr. ~~if needed, e.g.~~

I didn't raise rent for 4 yr. just to keep the good tenants.

- When we say RC, it is to control the rent increase, ~~the~~ RC is passed, it needs to address the rent decrease control to cover the market down side. to be fair. Is there a regulation to control rent not decrease more than ^{3%} ~~if~~

- If the rent control is passed, the same logic should apply to other small business. e.g. restaurants, ^{owners} is there a regulation to not allow restaurants to raise the dishes price?

nowaday, with all the costs added on, a decent dinner costs \$15-20 vs. \$10 a few yr ago. This is the same to property owners. The city can NOT to ask the owners to swallow the costs increasement.

G 1.1.1 1.1

R 1.1 1.1 1.1

thank you

gracias

- no mortgage & 100% down is not big investment company. Most property owners I know have to get a line of credit from ^{primary or residence} elsewhere and do all cash purchase because that is the only way they can win the bid purchase contract for a house

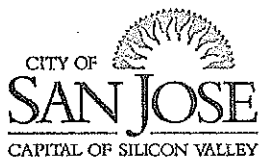
- in order to have more rental units on market, we need to make rental business easy to enter. rent control will only scare small business owner away. This will only make less units. ~~not~~ Market is only good if there are many competition.

- there is no price control for restaurants, supermarkets, grocer. Free market and competition keep them from asking unreasonable prices. Restaurants I ate at in the same plazas have increased price 300% since 2000 due to inflation and cost. Rental owners are also subject to same inflation. With rent control they can never catch up to cost inflation. This will put rental business to loss and force them to exit market.

- I know many average Joe or Jane with W2 salary who tried to do ~~rental~~ invest in rental business so they can make some money for kids to go to college. Most of them quit because they ran into bad tenants or unexpected high costs. Most have a horror story to tell. Rent control will only ~~not~~ prevent these pope and mama property owners from join the rental market and provide more units.

thank you

gracias



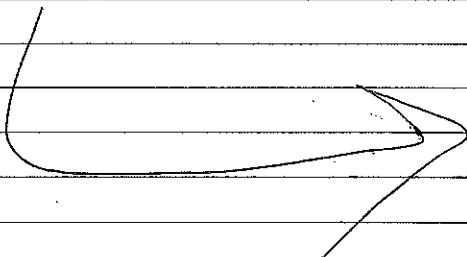
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Item # e
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See back side



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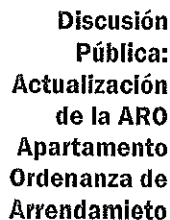
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Item # 4
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Factor Age of used capital items
replacement looking at options in
scope of consultant

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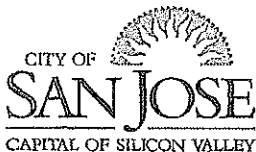
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Item # D
Número de artículo

Regarding Turnover, Can they
Analyze both voluntary turn
over and non voluntary of the
Tenant.

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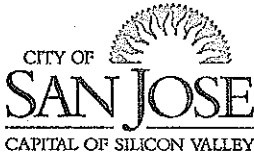
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Item # 4
Número de artículo

Scope of work

*How will the consultants work
be presented and weighted*

vs

*The work of this ARO
Committee*

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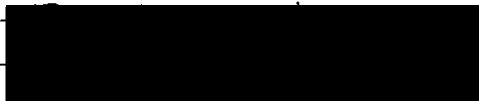
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C

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We are in a market economic
Rent



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ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE

REGULAR MEETING ACTION MINUTES

OCTOBER 17, 2015

MEMBERS PRESENT: Matthew Carney
Joshua Howard – arrived at 11:24
John Hyjer
Aimee Inglis
Melissa Morris
Michael Pierce
Elisha St. Laurent
Tom Scott

MEMBERS ABSENT: Gustavo Gonzalez
Roberta Moore
Elizabeth Neely
Eloise Rosenblatt

STAFF:	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Maria Haase	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

(a) Call to Order/Orders of the Day—Shawn Spano opened the meeting at 10:14am.

(b) Introductions— Mr. Spano introduced himself, committee members introduced themselves, and members of the Housing Department introduced themselves.

(c) Approval of the September 30, 2015 Action Minutes

Ms. Morris asked for clarification on whether the committee was allowed to vote on the minutes as a non-decision making body.

Ms. Grabowski answered that the committee was not required to approve the minutes, but because the meeting minutes were part of the public record, staff wanted the committee to have an opportunity to provide any necessary clarifications.

The approval of the 9/30 minutes was deferred.

(c) Unfinished business from October 14th meeting, if any (Housing Staff, Facilitator)

There was no unfinished business.

(d) Discussion and possible action of unfinished business from October 14th meeting (Housing Staff, Facilitator)

Mr. Chen presented information on alternative standards to the annual allowable increase.

Mr. Scott stated his objection to the focus questions as presented because: the cap was not intended to be an index and comparing our policy to other cities policies because both are bad public policies.

Ms. Morris responded that the ARO allows for the pass through of specific costs. Mr. Carney recited the section of the Ordinance. Ms. Morris continued that the annual allowable increase is similar to an index because there are other mechanisms to pass through indexed costs for maintenance.

Ms. Inglis shared that from past meetings information was shared that there had not been any operations and maintenance pass throughs, only debt service, so owners in San Jose were likely using the 8% annual allowable increase to absorb costs that were eligible to be passed on outside of the allowable.

Mr. Pierce shared that markets are cyclical and landlords can't receive/charge more rent than the market allows. CPI punished landlords severely. When the market drops, rents can't reset. Regardless of the annual allowable rate, a landlord can't charge rents at a rate that people aren't willing to pay. Mortgages aren't indexed – most are fixed rate.

Ms. Morris stated that she was glad to hear about fixed rate mortgages. As a homeowner her homeownership costs are relatively predictable and stable. Homeownership is out of reach for many people. Those people aren't choosing to rent over buying a home – they can't afford a home. People choose to get into the real estate business, but they rarely choose to rent. The purpose of the ARO is to provide stability to those who cannot afford to buy a home.

Mr. Pierce responded that renters have a choice on where to rent. Market forces need to apply to all parties. This policy needs to be fair to all parties.

Mr. Chen continued the presentation.

Focus Question: does the annual allowable increase meet the public policy purpose as stated in the ARO? [prevention of excessive increases, alleviation of undue hardship on tenants, assurance of a fair and reasonable return]

Ms. Morris responded that because the annual allowable increase is so high, the ARO does not meet the first two public policy goals.

Mr. Scott said that there is no practical way for the City to fully understand the business practices of thousands of property owners operating ARO housing to properly determine the fair rate of return. A cap is not an index.

Ms. Morris said that regarding fair rate of return – there is a difference between fair rate of return and unfettered pursuit of profit. The ARO has provisions to pass through costs and seek an additional amount of an increase to ensure a fair rate of return. This provision allows landlords their constitutional right to a fair rate of return and will be a provision in a new ordinance.

Ms. St. Laurant said that she doesn't have another income like landlords do. Has to make significant choices between basic needs on a regular income. Believes that a 2% cap on the annual allowable increase would be ideal.

Mr. Pierce said that while discussions of pass through provisions can continue, it's important to remember that the hearing officer has the right to determine what is reasonable and reduce the amount passed-on to the tenants, even if the owner was otherwise entitled to recoup more of their costs.

Ms. Inglis doesn't believe that the ARO meets the tenant-focused public policy goals. The 8% was set based of inflation in 1979. Because there haven't been operations and maintenance petitions, it seems that the 8% provides a fair rate of return. The ARO is not a rent ceiling.

Mr. Pierce said that the entire basket of housing costs are up – not just rents. The escalating cost of home sales puts pressure on the rental market. Is the City going to cap the price of single family homes? We need to think about who is going to pay for the rental subsidy that we're looking for.

Mr. Scott asked if an increase to the 8% cap in certain circumstances should be considered, perhaps in circumstances when rents have been flat for years, but the building suddenly needs a major capital work.

Ms. Inglis offered that in other markets there are regulations against price fixing and price gouging. The ARO provides that regulation for the rental market.

Ms. Morris said that there is a provision in the current ARO to bank rental increases at 21% over 24 months. Wants to be clear that rent control does not “cap” rents because vacancy decontrol exists.

Mr. Chen continued the presentation.

Focus Question: Does the fixed percentage increase align with the shared principles of certainty, predictability and fairness & Pros and Cons

Mr. Scott said that because other cities have shifted their annual increase doesn't mean San Jose should, especially without researching the impacts on the rental market in those cities. Considers tracking CPI as bad public policy.

Mr. Hyjer said that when looking at other cities represented on the graph, each of the cities on the low end on the annual increase have the largest problem with housing because when you reduce the annual allowable increase the housing stock declines. People choose to leave the housing market because it's not worth it. This is a societal problem – why are housing providers being burdened by this issue. The City should create a fund to provide a subsidy through a means test. People will stay in units there will be little vacancy.

Ms. Inglis doesn't agree that rent stabilization is a failed policy. Rent control exists in cities because rents were out of control, AROs were not the cause of rent shortages. Must consider whether the policy has worked to prevent displacement. Believes that existing 8% allowable provides certainty and predictability, but doesn't believe that it provides fairness.

Ms. Morris responded to Mr. Hyjer's comments about subsidy programs. Subsidies are one part of meeting the affordable housing needs of a community, as rent control is. Neither is a panacea. Empirical studies show that rent control has a net neutral effect on housing prices – but it does prevent displacement. Does not agree that the correlation between SF's tight rental market and rent

control is causation. Without rent control, low income tenants probably would've been gone long ago. Rent control isn't the only policy that will solve our affordable housing shortage. Fixed percentage provides predictability and certainty but does not track the economy.

Mr. Pierce said if the goal is fairness, perhaps tenants should be forced to stay in units when the market goes soft instead of allowing them to move where the jobs are. Supply is an important factor. Housing supply is not fluid and the City has a lot of policies that restrict housing supply. The housing problem is not the fault of property owners.

Mr. Scott commented that when you clamp down on the annual increase cap, you see other changes to the policy like San Francisco.

Mr. Chen continued the presentation to an inflation-based index.

Focus question: Does an inflationary index align with the principals of predictability certainty and fairness?

Mr. Pierce asked why 1978-2007 was selected.

Mr. Chen answered that 1978 was selected because that's when the Ordinance was created.

Ms. Morris asked if Berkeley and San Francisco had a floor and a ceiling.

Mr. Pierce asked if data on housing costs during that period is available.

Mr. Chen answered that the data can be provided.

Ms. Inglis said that rent control is often litigated. San Francisco's index of 60% of CPI has been upheld by the courts.

Mr. Scott offered that the price of housing has skyrocketed since 1978.

Ms. Morris believes that CPI offers an element of fairness, though the fluctuation does limit the certainty or predictability.

Mr. Scott said that you can write anything into an ordinance to make it legal but it doesn't make it responsive to the market. Our economy fluctuates in big cycles. The problem with using an index is that it locks in the downside but doesn't respond to the upside.

Mr. Carney said that the fixed increase is a little daunting. Even as a teacher with a wage schedule, his income doesn't meet the 8% schedule. If buying power matched annual rent increase, he would be able to invest in a rental property. Even with a lower increase, he wouldn't choose to stay in an apartment, he would choose to buy a home.

Mr. Pierce said that markets are cyclical. People are mobile but buildings are not. Family member moved to Portland because housing costs were lower there. The relative change of costs to occupancy make CPI very difficult to recoup costs.

Mr. Howard said that he needs to understand the magnitude of the problem that we're trying to solve before he can respond to an alternative standard. Would like to know how many petitions were denied

because they were allowed by rite. Does not know any other entity that sets a required rate of return. If owners feel that they aren't getting a fair rate of return they will flip the unit. No other city fees are tracking with inflation. Everything is tracking higher than inflation. Model doesn't meet any of the shared principles.

Mr. Carney said that with the fluctuation of the economy, lower income folks don't see the benefit of a higher income or growth in wages. Appreciates that landlords want to capitalize on a higher market. People can't just get up and leave the area. Some can't afford to move to another city.

Ms. Inglis said that if the annual increase is tied to inflation there should be a petition process to recoup O&M costs, which already exists under the program. The housing crisis is happening nationally, so even when people move, housing costs are going to be a problem.

Mr. Pierce said that the reason that housing costs are increasing because of public policy. There are tons of jobs, but the City isn't allowing housing production to occur at a rate close to the job growth. The supply issue is the one we should be focused on. [Provided modeling example]

Ms. Morris said that as the "burdens" on landlords are discussed, the benefits provided through public policy and government influence like good schools, parks, community infrastructure, which drives up rents because properties become more valuable should also be discussed. This is important to remember when discussing fairness. As a city we've said we believe in diversity and preserving affordable housing, which is to say that we need to work to prevent displacement.

Mr. Chen continued the presentation to the operating cost standard.

Focus questions: does an operating cost model provide predictability, fairness and certainty?

Mr. Howard doesn't believe that this model is very difficult to administer and would create a significant amount of work, while reducing predictability. Would not achieve any objectives.

Mr. Scott said that he's not sure exactly what a fair return is, but without City Hall underwriting the downside of the economy, landlords aren't going to sign up for this.

Mr. Carney asked if staff was suggesting any specific model at this point.

Ms. Inglis said that this model appears to be a significant amount of work and that there should be a separate pass-through for operations and maintenance.

Mr. Hyjer had questions about the data. In the Bay Area operating costs makeup about 37% of total costs and smaller operators likely have higher costs. There is no consistency in the change in utility costs except that they never go down.

Mr. Pierce offered that an additional standard to look at should be means testing of incomes for renters.

Mr. Howard said that in New York City when rents hit a higher level and the tenant's income meets a certain level, then unit is removed from rent control or the annual increase moves above the allowable increase.

Ms. Morris said that if we're going to means test we would need to place a restriction on landlords being able to increase rents beyond 30% of a tenants income. This increases unfairness between the tenant and the landlord. This is very sensitive information.

Mr. Hyjer said that we need to remember that truly affordable housing is affordable in perpetuity. The City has been lacking in providing enough incentive to developers to provide that kind of housing.

Ms. Morris said that if we wanted to frame what we are doing as providing a subsidy, we need to talk about all of the restrictions that come with subsidy programs. Rent control is not a subsidy program.

Mr. Pierce said that as an owner of property he can choose to participate in the housing authority's programs and opt-in to those limits or choose to accept subsidies to comply with an affordability restriction.

Ms. Inglis said that rent control is an anti-displacement mechanism not a subsidy.

Mr. Carney asked if the unit would remain decontrolled after a means-tested tenant vacated the unit.

Mr. Pierce said that means testing allows the free market to set the rental price. Current restrictions depress the rent amount.

Mr. Chen continued the presentation to multi-year increases/banking.

Focus question: does banking align with certainty, predictability and fairness?

Mr. Pierce says that banking is fair-er.

Mr. Carney said that the current 21% is unfair to tenants.

Mr. Scott said that banking should be as lenient as possible. Has rarely seen the 21% used except in cases when rents have been flat.

Mr. Pierce said that residents of units during a soft market is also "banking" because rents fall.

Mr. Carney said that not all tenants are banking in any circumstance. Some tenants are paying up and over 50% of their income in rent.

Mr. Howard said that markets are cyclical. Property owners have to respond to the market and banking allows for the quick recovery of market-based reductions in rent.

Mr. Carney said that he would like to see data on declines in rent. Not sure that households are so mobile to up and move based on rent prices.

Ms. Morris said that she has not experienced rent decreases for in-place tenants. Regarding banking, it does not allow much predictability for tenants. If it's to be considered, it does need to be capped.

Mr. Hyjer said that rent decreases do happen. Landlords lower their rents to keep people in their homes to prevent vacancy. The housing market is supply and demand based.

PUBLIC COMMENT

Owner: Annual increase at 8% doesn't mean that landlords actually increase that much. Increases hinge on the responsibility of the tenant; irresponsible tenants increase costs. 8% allows flexibility.

Tenant: 8% increase shouldn't be optional. Wages don't reflect the 8%. Increase should be 2%. Has to work every day to afford living here. 2% allows owners to survive.

Tenant: Los Gatos has rent control and its fine.

Owner: Against rent control. Doesn't help rental market. Look at San Francisco. Policy doesn't make rentals more affordable. 8% allows owners to keep up with rising costs of the bay area. Also against just cause eviction. San Jose government should create a program to provide for affordable rentals.

Owner: Root cause of issue is supply and demand imbalance. 400 new housing permit per 1,000 new residents. Informal survey among group – 2br. 1,500 – 2,200. During downturn, 2brs dropped down to 1,700. takes 12 years to recover to original rent.

Owner: Parents worked hard after immigrating to invest in rental properties. Property is speaker's college fund and parent's retirement. Setting rental caps is not the American way.

Owner: Family has worked very hard to get where they are.

Owner: Apartments under ARO are older and more expensive to operate but are still affordable. CPI doesn't accurately capture increased costs. Double paned windows in 17-unit building cost \$37,000.

Tenant Advocate: Supports an increase over 2% and the committee is limited by lack of consensus. The owners operate units that are under the ordinance that is attempting to achieve public policy goals, but they have to make money. This is a public interest –

Tenant Advocate: Participated in the debate when the policy was originally implemented. The 8% was never supposed to continue in perpetuity. The world has changed since 1979. Wages have been stagnant.

Owner: ARO properties are the oldest buildings in San Jose. Costs of maintenance on properties have increased dramatically. Need structural repairs and require the most maintenance. Some owners maintain their properties but others do not.

Tenant: 8% increase isn't beneficial to the middle class because they can't climb the economic ladder. Can't save money to move out of ARO unit. Can't start a family in a 1BR apartment. Can't get married.

Owner: Rent prices are not set by owners, but by the market. The housing shortage has caused this problem.

Owner: Property manager for 8 years. Works with different owners. Owners have high mortgage and cost of ownership. Long-term owners have more room to work with and they subscribe to many public programs like Section 8. Few bad actors started this problem.

Owner: Small housing provider with a 3BR 2BT, residents pay 1980. Wants to keep the good tenant so she doesn't really raise rent. Changes to rent control punish good owners like her. If she leaves market her tenant will leave.

Owner: Main problem is to solve housing supply. Planning Department should approve more housing.

Owner: Against decrease in 8% annual allowable increase. Research did not consider property taxes which equates to 3 months income. Foreclosure is a real threat. Many property taxes add to cost of operation.

Owner: Gross rents 2,035 – only increase 6% among ARO units. It's a subsidy. Lowering the increase will lower the vacancy rate. Low vacancy rate increases evictions.

Owner: Disagrees with 2% rent increase because it doesn't capture enough income to maintain property.

Owner: Reducing 8% cap will restrict owners from being able to maintain their properties.

Tenant: Renters don't have a choice but to rent, many want to be owners. People need to save money to be able to purchase property. Owners have the choice to walk away and many have a second income. Tenants don't have a choice.

Owner: Used to rent and is now a homeowner. Government policies should be fair. When people are renters they want rent control. But rent control is not fair to owner. People choose to live here and move here from other areas. People can choose to live elsewhere.

Owner: Sole income, family's 401k and children's tuition. Vacancy is harmful.

Tenant: 14 years in San Jose. Works for a school district in San Jose. Renter – pays 1,600 per month which is over 50%. Gouging his rent means he can't reinvest in local economy. Not all people work for google.

Owner: Negative consequences to apartment owners: garbage passed on to owners.

Tenant: Has been an property manager for 10 years. Wants a list of people who have lowered rents. Hearing a lot of delay tactics. Not fair to charge renters different amounts.

Broker and tenant: Focus questions: certainty and predictability are objective. Fairness is subjective and brings up social ills that aren't addressed by rent control.

Owner: Not all landlords are bad people and not everything is about money. Allows tenants flexibility. ARO passes social issue to landlords.

Owner: Rent control is a bad policy – tight supply is real issue. Zoning requirements are very tight and the City should increase supply and ease restrictions to builders. Housing costs have gone up over 8% for last few years. Owners pay market price when purchasing properties. Against reducing annual allowable increase.

Owner/tenants: Against rent control and against reducing annual allowable increase.

Owner: Has been a tenant and is now a tenant. Berkeley ARO properties are slums because owners don't make enough to take care of properties. Now as an owner, bought properties in San Jose and renters want updates made. Previous owners neglected, but no money to do so.

Owner: Lived in San Jose for 30 years. Been tenant and owner. Against rent control. Understands issues. City should address issue in other way.

Owner: Property taxes have gone up 44% in 6 years. Insurance has gone up 3.9% since 2014. If rental increase is capped then all costs should be capped as well.

Tenant: Happy to hear other people have worked hard to own homes. Two-income household work more than 50 hours a week. Good tenants and got a 21% increase anyways.

Owner: Unless all costs can be limited, rent increases shouldn't be limited. If residents can't afford rent, they need to find other solutions.

Tenant: Pays rent every month in a 2BR household – can't save money to buy a house or a car. Only pays rent.

Owner: Single mom with two kids. Bought property as an investment for retirement.

Tenant Advocate: The market isn't free because zoning impacts the market. Everyone should all agree that 8% was derived from an old standard.

Owner: No other source of income. 8% is fair. Accept a variable rate but CPI is artificially controlled. The cost of living goes up higher and faster than 8%.

Owner: Manages her own property and works closely with the tenants. Understands difficulty for tenants. Solution isn't to add more restrictions on top of ownership.

Tenant: Conversation shouldn't be about who is good or bad but about how to create solutions to the affordable housing crisis for all residents. Rent control needs to be at 2% or CPI.

(e) Open Forum

Renter: Property manager and believes that increases in rent are not unscrupulous but are reinvestment in properties. Property owners are business owners

Owner: Invested in duplex in 1978. Rent has grown over time at 4% a year – not 8% which would be ahead of market. Rate of job growth has decreased. This is good for tenants and landlords.

Owner: Perception that every landlord raises rents 8% every year. Concerned about origin of data. Where will the consultants get the rental information? Consult websites and databases or contact smaller property owners?

Tenant: 2% is a viable number because housing was still provided during downturn. Big incentive to push tenants out. Believes that people should've had two minutes.

Tenant: ARO only impacts 35% of the housing in San Jose, and many owners in the room aren't owners of ARO units. Hasn't been updated since 1978 and needs to look at it again. Too polarized.

Owner: Small housing provider. Renovation of apartment takes money and time – roughly 2 months without rental income. Cost of turnover of unit is roughly \$10,000.

Owner: Prices aren't driven by cost, it's driven by the market. Regardless of cost, the market sets the price.

Owner: Tighter rental controls creates a decline in rental units.

Owner: People may not be able to afford even low rent. Government should be providing housing to low income people, not private market.

Landlord: This affects San Jose as a whole. Please be mindful of that. This isn't about landlords and tenants. It's about families.

Tenant: Lack of incentive for people to invest in housing is absurd – everyone wants to own. Are all wages going to increase to match the annual allowable increase? Most people don't get this raise. Rent prices are out of control.

Tenant: Costs are often tax write-offs. Owners make a profit. Don't lie about that. If it wasn't profitable you wouldn't be buying them. Mobile home parks have a 3-7% increase. Why are these different?

Owner: In economic upturn right now but there are also downturns and owners must be able to save for those times. Rent control is a subsidy.

Owner: 20 years ago the home prices were high. 10 years ago companies left and house prices went down. Be reasonable.

Owner: Owns a 4-plex under rent control. Bought 10 years ago – not free and clear.

Owner: Not all costs can be written off in 1 year. If the annual allowable increase is capped at 2% owners won't have money to maintain properties.

Property manager: Rent control does not work. Should look at the number of units that are taken off the market when rent control changes are made.

Tenant: Landlords profit off of the poverty of tenants. Landlords in the audience are mocking tenants which makes it impossible to trust them.

Owner: Provides housing, which is not charity. Rent control forces small property owners to provide more and more charity. Normally doesn't increase rent but will now.

Owner: Pass through is not a good viable way to recoup costs and it's controversial, will lead to more lawsuits. Low increase makes it difficult for owners to frontload costs.

Tenant: Committee needs to stop using the word subsidy – rent control isn't a subsidy.

Owner: Owns one building. Costs are increasing. Root cause of the problem is high incomes from tech companies. Should create a fund to produce affordable housing.

Owner: Against rent control of any kind. Family moved here for good job opportunities. Strong believer in free market and smaller government. Doesn't agree with government interference. Bay Area has prospered because hardworking people from all over the world came here.

(f) Adjourn Facilitator Shawn Spano adjourned the meeting at 1:58 pm.

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Item # _____
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Rents Serve two Functions:

① compensate providers the cost of providing shelter to consumer.

② provide the ~~also~~ ^{economic} incentives needed to attract new investment as well as maintain existing housing stock. In this respect, housing is no different from other commodities, such as food or clothing.

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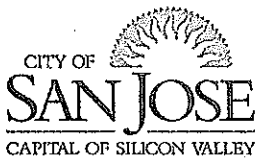
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Item # _____
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One thing that needs to be addressed
is the affect of rent control
on very low income seniors and
the disabled.

We live on fixed incomes. Many
seniors & disabled face the prospect
of becoming homeless due to
rent increases. Without subsidized
or below market housing this
over continuado

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would be the case.

thank you

gracias



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F

Tax deduct,

write off

over 10 year

over continuado

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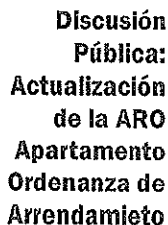
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Item # 7
Número de artículo

Talk about the 8% allowable increase.

over continued

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Item # _____

Número de artículo

Rent control will
make housing shortage
worse not better

over continuado

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over continuado

☐ I am a member of the public. Soy un miembro del publico.

over 1 million people times
that by 3 bc everyone knows
someone. It effects everyone
on a diffent level. So please
I beg you to keep this in
mind when taking these
things back to the committee.
when making thes desions
its not just you.

thank you

gracias

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Item # E
Número de artículo

I have a question here. If a cap should
be put on the rent, should we put a
cap on the purchasing price as well?
If not, that is not fair!

If a cap put on the rental price, this means
a cap on the income of owners of the
rental unit. Shall we put a cap on the
income of people in other business or
industry? If not, that is not fair!

over continuado

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Item # 11
Número de artículo

No Rent Control!

No ~~Cause~~ Just Cause Eviction!

over continuado

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Item # f
Número de artículo

Rent control is a bad thing to have
for the city and the society. Instead,
ways to find more sources of housing
providers, incentives to encourage
more ~~people~~ housing providers from
the community, incentives to
encourage housing providers and
over continuado

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Residents to get along with each other, incentives to encourage housing providers to keep their residents and to encourage residents to stay in their current places happily, should be looked into.

Please ~~don't~~ use constraints to force people to do something that people doesn't want to do.

Please use incentives to encourage people to do things. That will have mutual benefits for everyone, and people are willing to do.

thank you

gracias



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Item # 5
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Rent Control as a whole thing doesn't make sense. It causes social problems as it would incur housing providers and residents to go against each other, and residents would be stuck in one place, to deal with the same housing provider for long long time, their conflicts would be accumulated to a level that both sides could not handle. If no rc, the price that the tenant pays would be similar to market value, tenant would be able to find a place to move to.

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Once the resident moves out, he/she doesn't need to deal with that particular housing provider. Everything starts from fresh. Things will be better with a new housing provider for the resident.

thank you

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Item # F
Número de artículo

First off I want to state that I personally understand the frustrations that tenants feel about the rental market and rent increases as I am a renter. I am also a Property Manager and I want to make clear that the increased rents in the rental market are not a result of owners unscrupulously charging residents to increase their own wallets.

Being a property owner is similar to owning
over continuado

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a business. When costs increase the prices are passed on to the customers in order to provide similar or better quality product. If you were an property ^{or business} owner wouldn't you continue to increase your costs to at least cover these expenses to allow your business to continue to succeed?

By restricting rent increases to 4% there will be further strain on the rental market. Tenants will be less likely to move creating a larger supply problem. The residents ^{families} that do decide to move or leave to move will then be faced with higher rental rates due to supply constraints.

There are just a few reasons why this ordinance should not pass. ~~and it is not in the best interest of the community~~

thank you

gracias



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Item # _____

Número de artículo

What michale said is ~~very~~
~~true~~ Landlords are not the ones
responsible to provide affordable housing to
the public.

over continuado

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8% increase is not guaranteed
It is dictated by the market,
Similarly as job market,
Companies are not forced to
increase or decrease employees
salary to a certain amount as
the rental control. over continuado

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Share Your Comments

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Item # C
Número de artículo

CPI does not measure consumer prices.
It is adjusted by congress to make
it appear prices are not rising.
If gas is going up, it is excluded.
When gas goes down, it's added back.
The whole purpose is to reduce
any adjustments to Social Security.
• my utility costs have doubled in
the last 3 years with reduced
usage

over continuado

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- Macdonald's \$1 menu is now closer to \$1.50
- Eggs are over \$5/dozen
- Tomatoes over \$3.50/pound.
- etc.

Despite these CPI says there has been no inflation, so there is no cost of living for 65 million social security people.

It is not reasonable to tie allowable increases in rent to an artificially controlled index.

- 3 time in the last 6 years have had a CPI which deleted Social Security cost of living increases.

CLEARLY IT IS ARTIFICIALLY CREATED
The cost of living is increasing

thank you

gracias

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Item # F
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Rent control benefits tenants and how comfortable they are living in this city. Many people I know have to get 2 jobs to rent in this city and to afford their homes. Landowners do not have those problems. Rent control will keep people in san jose. Boost the economy of san jose. And landowners will no doubt survive either way.

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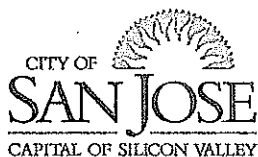
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An increase in rent this
year is an outrage

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1. "Resident not able to afford the rent?"
Resident should work on how to make ~~it~~
~~affo~~ themselves capable.

What about company lay off ~~per~~ employee?
Employee have to find other jobs!

Can city stop company laying off people?

2. Can you control the increase of housing
price? No.

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We ^{are} against Rent Control in San Jose.
We ^{are} against to cap the annual
increase for rent, we should rely
on market to adjust itself.
House market has high and low,
rent market also has high and low,
cap it will restrict the flow and
bring in unexpected result, undesired
result for both landlords and tenants.

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Rent control is on older buildings. But those are the ones need maintenance. That cost is currently taken in consideration with current ordinance. Please keep it that way so landlords can maintain and keep up properties & neighborhoods.

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The cost of houses and land has gone up a lot more than inflation rate, from 1979 to now, a house in San Jose Price has gone up by 8 to 9 times, which is a lot more than inflation rate.

The cost of maintaining rental units has gone up a lot more than inflation. Capping rent increase by 8 inflation will bankrupt housing providers. rent control is failure policy.

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Item # EoF
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Michael Percp made an excellent comment.

Something like "If we are going to have some type of rent control, maybe it should be tied to income. So, if a household experiences an income increase, and would not need the protection, ~~the~~ they wouldn't get it."

→ I am a tenant, for rent control, and this seems to be a solution that could work for everyone.

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I do believe a government policy should be fair to everybody. RC is a punishment to home owners. A person who is renting now could become a home owner in the future. A person who is a home owner now could become a renter in the future as well. The government policy should not favor one side and punish the other side. The rental price, housing price is just like any other stuff's price which
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is decided by the market. We should let market to decide the rental price, not the government. Without market, any control by government is meaningless.

The more the government involve in the market, the more cost which will apply to the rental market. those cost will eventually be paid by either home owners or renters. This hurts the community.

thank you

gracias



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Even though the rental price in San Jose is higher than other cities outside of California, but I think the rental price is still reasonable and most people can afford. otherwise, people have moved to other low cost cities already. There are so many places in the US have lower rental price than San Jose, people choose to stay in San Jose means they are able to afford the living cost here. No law enforce people to live in high cost area. when people

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choose to live in high density, high cost area, they know they should accept the higher rental price. This is no difference from the situation that people choose to pay higher price to buy organic food or famous brand clothes or bags. We should not punish home owners in high cost area by putting cap on the rental price just because some people cannot afford. This is just like we should not punish the farmers by putting price cap on the organic food just because not every one can afford organic food. For those low income people, there are other ways to help them. just like food stamp program, government can build shelters, more affordable houses for low income people. government should not let the organic food farmers or home owners to take this responsibility to solve the problems of low income people.

thank you

gracias

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Item # e
Número de artículo

Force question establishes 'sides'

Certainty & Predictability area
quantifiable

Fairness is judgment & emotional,
which pits 'sides' against
each other

Fairness is social issue RO is seen
as solution but puts ~~honors~~ ^{over continuado} on owner

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The house price has gone up way over 80% per year during the past several years. Construction cost and ~~service~~ Maintenance Service Providers cost have gone up by 80%. Capping the rent increase puts undue financial pressure on hardworking property owners.

over continuado

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Item # E
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manual cap or index rent
against free market works
only inviting trouble, not
going to help neither resident
nor home provider

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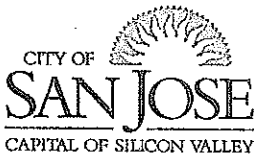
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Item # 7
Número de artículo

Landlord's pressure / lost from

① the building maintenance cost.
repairs, fixing

② the public cost - water, garbage
utility, inflation.

③ the city

8% is reasonable average, normal.
Some cities even don't have it.

Income increase depends on the private
over continuado

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no. not the government.

So there is no necessary
connection between rent
increase and income increase

• my suggestion "just let the
market adjust it."

if the market not strong,
no rent will be received.

if the market is strong
that means the tenant need
it and willing to pay it.

SF - ^{built} after 1990. no rent
control.

thank you

gracias



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Item # 2
Número de artículo

I'm a San Jose resident for 14 years.
I have been reading the public materials
and I am concerned about the current
items. Why is \$100,000 a median income.
Why is there a focus on 8%. We need
a lower percentage. Cost and debt
pass through is added to rent. That
is unfair.

We need rental stabilization in
a comprehensive and broad manner.

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annual cap or index induce
destructive moves against fair
free market. It is unAmerica
against hard working equal
opportunity residents and
housing providers, both.

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A potential argument is that it isn't the fault of owners for stagnant wages. All this projection and deflection of blame isn't a productive action to take. The reality is that my family has been here for over 60 years, and no one in my family owns their home.

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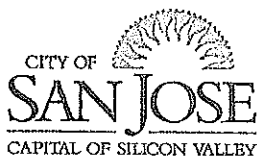
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Item # ~~6~~
Número de artículo

I don't know a single person whose income
~~increases~~ increases at 8% a year, ~~or~~ at all.

Allowing landlords to increase rent annually
at such a steep level has, does, and
will continue to force people to make
undue sacrifices for themselves and their
families.

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Item # E9
Número de artículo

I am a renter. I can't afford luxury apartment but don't want to live in a slum either. Rent control that's too tight will get middle-of-the-road but nice rental become slum which force get renters like me to pay more for a nice clean safe place or stay in a slum.

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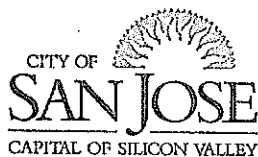
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- Melissa said let's have other measures to complement rent-control. But more complex law will only benefit lawyers, not tenants, nor owners. No more complex law PLEASE!

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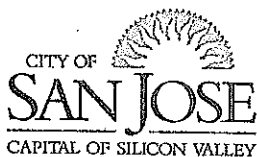
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- the lady (Melissa?) keeps on referring to current ⁵⁰rent ordinance as a way to protect the landlords but this is the exact same ordinance that she is trying to change to make it worse.

- This same lady wants ^{tighter} rent control yet she is not a renter to understand the type of renters who would not mind staying in a nice (not luxury) place, and not wanting to live in old un-maintained housing like over/continúo SF, E Palo Alto, Hayward.

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- She said rent needs to be controlled so it would not be unconstitutional. Does that mean the rest of other cities are unconstitutional.
- E. St. Laurent mentioned cost of living and want tight control - but she failed to see cost of living (milk price as her example) affects everyone, not just renters. So basically, she's asking owners to absorb all the cost?

thank you

gracias

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Item # 5
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*How can one think that limiting
the cap at 2% when inflation
is nearly at 2%?*

*It might be good for the tenant
but will put an owner out of
business.*

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I don't think we should put cap on the rent. rental price is decided by the market (supply and demand ratio, the local income etc.) The rental price is not decided by the willing of home owners or renters. When job market is getting better, the rental goes up, while when job market is getting worse, the rental goes down. That is reasonable. If we put cap on the increasing rent, shall we also put cap on the decreasing rent? As I know, after the network bubble burst, the rental price dropped a lot during that time.

over continuado

OR send your comments to o envíe sus comentarios a
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Item # 6
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I don't think rent control will solve the housing problem at all. If there are only 1000 unit for rent on the market but there are 2000 family are looking for house to rent, no matter how much the rental price is, only 1000 family can get place to rent. The root cause of the housing problem in bay area is supply is limited and more people move in. putting rent control will discourage building more rental unit and make situation worse. The solution should be change policy to adding supply or moving jobs out of this area. **over continuado**

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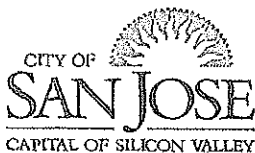
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Item #

E

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Comparta sus comentarios

Hi Wayne + Ann:

I'm a renter, a mom,
a wife and athlete. Rents are so
high that I live with my mom. When
I was able to afford my apartment
we ~~we~~ were not able to afford food.
We used food banks. The cost of living
is so high that I am unable to provide
my son with activities that will enrich
his life. no soccer, no music, no karate.
If things don't change, I will have to
leave San Jose ... and this is my home ^{over continuado} ;)

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see →

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- ☒ I live at an ARO apartment ~~←~~ I just moved out in AUGUST
Vivo en un apartamento alquiler ordenanza. BECAUSE I COULDN'T AFFORD
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I am unable to qualify for a home loan and my husband and I do rather well we are moderate income as I heard the term today. I work in the tech industry but I don't get a raise each year. Even BMR Apartments are not in reach! Every time rents increase my childcare provider raises her ~~costs~~ costs. There is so many ripple effects to rents being so high. My mom worked for her whole life and she will also soon be forced into leaving San Jose as well.

On top of the high rents is the astronomical deposits. If it were not for my mom I would be homeless and I work 2 jobs. Two incomes are not enough.

A lot of these places with astronomical rents are not even worth it. My old apartment was very crappy. But that did not stop them from renting the same apartment ~~out~~ for over \$250 more after I left.

Sad. SAD state of affairs.

thank you

gracias

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Item # E or F
Número de artículo

*Low income subsidize tenants,
artificially lower turnover, lower vacancy,
hard for owners to move in, less rent-controlled units
for renters. & more need to exist.*

*Pass-throughs are troublesome, s/b for very
extraordinary cases, too prone to error / disputes
and thus lawsuits.*

*All people are same = low income, single parent,
Seniors, etc.; ^{over continuado} life changes, and
market / rent allowance
should be flexible.*

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Item # 6
Número de artículo

I vote against RC, which hurts the
housing market

over continuado

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Item # E
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Housing crisis has two issues.

1) Housing availability.

2) Housing affordability.

We know RC does not help solve
any of them. Even worse, it will
reduce both availability and
affordability.

over continuado

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would be the case.

thank you

gracias



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No Rental Control

over continuado

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Item # e
Número de artículo

[Redacted]

No Rent Control. Let
small housing provider survive.

over continuado

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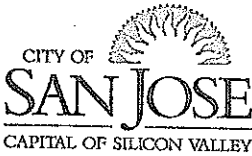
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Item # E
Número de artículo

I want to know the answer that if
Postar Service charge from \$80 in
2010, to \$125 2015 more than 50%
why the small property owner can't keep
8% increase?

over continuado

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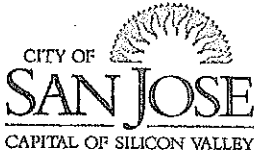
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Share Your Comments

Comparta sus comentarios

Item # e
Número de artículo

[REDACTED]

No Rent Control

Let small housing provider
survive!

over continuado

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Share Your Comments

Item # 2

Comparta sus comentarios

Número de artículo

- Rent price is not decided by housing providers but based on market price which is formed by renter's offering prices.
- No, it's not renter's affordability issue but only low income issue.
- Helping low income should not target any individual private housing providers. That's taxpayer's responsibility as whole.
- RC is for entire renter's not only for low income.
- When market is soft, the vacant we need to pay mortgage.

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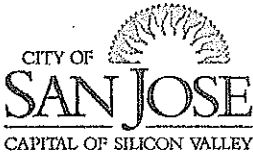
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Item # e
Número de artículo

I am against rent control, and
just cause eviction. ~~if~~ They don't
help the rental Market

over continuado

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ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE
REGULAR MEETING ACTION MINUTES
OCTOBER 21, 2015

MEMBERS PRESENT: Matthew Carney
Gustavo Gonzalez
Joshua Howard
John Hyjer
Aimee Inglis
Roberta Moore
Melissa Morris
Elizabeth Neely
Michael Pierce
Eloise Rosenblatt
Elisha St. Laurent
Tom Scott

MEMBERS ABSENT:

STAFF:	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Maria Haase	Housing Department
	Paul Lippert	Housing Department
	Ramo Pinjic	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

(a) Call to Order/Orders of the Day—Shawn Spano opened the meeting at 6:16 pm.

(b) Introductions— Mr. Spano introduced himself, committee members introduced themselves, and members of the Housing Department introduced themselves.

(c) Approval of the October 7, 2015 Action Minutes

No action taken – review only

(c) Unfinished business from October 14th meeting, if any (Housing Staff, Facilitator)

There was no unfinished business.

(d) Discussion and possible action on potential modifications to the cost pass-through provisions of the ARO (Housing Staff, Facilitator)

Mr. Chen began the presentation on the cost pass-through provisions of the ARO.

Ms. Morris asked if a landlord wants to increase the rent above 8%, does the landlord have to file a petition with the City. Both the regulations and the Ordinance say “may” instead of “must”. Law Foundation experience is that the onus is on the tenant to file a petition.

DRAFT

Ms. Rosenblatt asked if the reason that the pass through petitions haven't been done is because the real estate market has been flat. Most improvements are done at the time of sale.

Ms. Moore responded that she did her improvements as tenants vacated units to bring them up to standard.

Mr. Scott responded that utilizing the pass through involves a lot of paperwork and may require hiring an accountant and an attorney. Some owners may be making the decision to use the 8% or the 21% because those are easier to do and require less maintenance. Instead of Ms. Rosenblatt's example, Mr. Scott said that

Mr. Pierce said that the market constrains owners because people may not be willing to live in units if the rents are increased too high. Also the restriction of one increase per 12 months means that owners have to be strategic on when to increase rents. This is the biggest concern to owners because the market cycles. Lastly, the hearing officer has the final discretion to lower the increase.

Ms. Neely asked about the pass through process and if professional services are really warranted.

Mr. Chen responded that attorneys are not regular attendees of hearings.

Ms. Neely responded that she doesn't quite understand why an owner would choose not to follow the process if the amount of money is available.

Mr. Gonzalez responded that cost pass through provisions do not meet the standards of certainty, predictability and fairness.

Ms. St. Laurent said that she lived in her unit for five or six years during the economic downturn, but her landlord did not reduce her rent. Asked how many cases have been resolved voluntarily. Ms. St. Laurent wondered how owners can say that the process is long and difficult if they've never been through it.

Mr. Pinjic responded that not many people have used the process.

Ms. Inglis asked if all pass throughs increase the base rent in perpetuity. Even through vacancy decontrol. Asked how Santa Monica's pre-authorization work happens. From her experience other cities see more cost pass-throughs because their annual allowable increase is lower. Believes that one reason the pass through isn't being used is because the annual allowable is less effective.

Ms. Morris asked if a petition has ever been denied based on tenant hardship. Believes that San Jose isn't seeing petitions because the 8% is generous. Many business costs like mortgages and insurance are tax deductible. Because the City doesn't have a mechanism to track annual rents, it's really hard to understand what's happening in the market. Believes that cost pass-through provisions do create some fairness to both groups, as long as there are limits. Don't want to create a disincentive to properly maintain buildings. Owner hardship is also part of the petition process.

Ms. Moore said that the 8% and 21% helps a new owner improve properties that haven't been kept up or improved. What percentage of owners are English as a Second Language or small business owners? Predicted that if annual allowable is lowered, businesses will start up to help landlords use pass throughs.

DRAFT

Mr. Scott agreed that if the annual allowable increase is lowered it's likely to push owners to use pass throughs. May reach a point where there becomes an incentive for an owner

Mr. Howard wondered why discussion is being had outside of the scope as directed by the City Council. Believes that there are two ways to push a rent increase: they can go through the pass through process or they can issue a rent increase over and above the 8% and be prepared to be challenged as an excessive rent increase.

Ms. Morales-Ferrand responded that the City's interpretation of the Ordinance is that the landlord must file a petition.

Mr. Howard continued that the annual allowable increase provides certainty and predictability to the owners. Ratcheting down the annual allowable increase could place a significant burden on staff and owners.

Ms. Rosenblatt asked about the demographic of owners, as many who have participated in the process are mom and pop owners and first time investors. Is there any provision in the ARO as it currently exists to determine the extent of the owner's real estate holdings?

Mr. Chen responded that it does not.

Mr. Pierce responded that cost pass-through provisions do not meet the goals of predictability, fairness or certainty.

Ms. St. Laurent said that ownership brings with it a responsibility to research the investment prior to investing. Believes the cost pass-through provisions provides predictability and fairness.

Ms. Morris said that when buyers consider buying a rental property, rents are part of the financing and purchase. Owning a rental property is a longer term investment and with that come with fluctuations in the market. Stated that there are ways to recapture costs outside of pass throughs or rent increases because many costs are tax deductible.

Ms. Inglis said that just cause evictions are related to the issue. Believes that the mediation/arbitration process is a bit long and could be reduced to just arbitration. If the annual allowable increase is reduced, it's important to have a cap on the timeframe for pass through provisions.

Mr. Scott focused on the fair return provision and said that there is no current standard for what a fair return is. The 8% provides enough income to maintain properties

Ms. Moore said it's important to remember the cycles in the market. Her business has been dependent on high-tech since 1983. When layoffs happen, the market drops. Believes that it's important to make it fair based on market cycles.

Mr. Gonzalez said that at 8% the ARO is working because Owners have enough income to take care of properties outside of the cost-pass through process and the City isn't seeing enough petitions to signify that there is a problem. Why are we focused on this?

Mr. Chen continued the presentation to review debt service petitions.

Mr. Howard asked if each of the properties are unique and also if there have been

DRAFT

Ms. Moore asked how many bedrooms exist in each unit.

Mr. Scott asked if debt service occurs in the same year as other pass throughs. He also asked if the Operation & Maintenance Pass-through offered the use of variable rate interest as opposed to fixed rate interest.

Mr. Gonzalez asked about the 30 year mortgage terms. Are these 30 year fixed terms or 30 year amortization periods.

Ms. St. Laurent asked the public be respectful of during public comment.

Ms. Moore said that eliminating the debt service petitions will reduce the sale price of building which will impact the City's tax rolls.

Ms. Inglis said that she doesn't see the purpose of the debt service pass through. For tenants the rent increases tied to debt service leads to displacement.

Ms. Morris said that she agreed with Ms. Inglis. She has worked with tenants impacted by debt service cases. Specifically one case was of an owner who took out a very expensive loan and passed costs along to the tenant. Displacement happens.

Ms. Rosenblatt is sympathetic to the investment process. There are many ways to disguise costs as debt.

Mr. Pierce said that the purpose of the debt service pass through is for owners to be able to recoup their costs and spread them over time (tenants). Removing the debt service provision will have an impact on sales and probably will reduce property maintenance.

Mr. Howard said that without this provision the property owner may go into foreclosure. Having a mechanism in place to pass on costs provides a financial benefit to the City and the County in property tax increment.

Ms. Morales-Ferrand asked for Mr. Howard to clarify the argument that foreclosure scenario is likely without debt-service.

Ms. Morris stated that she doesn't understand why the existence or non-improvement pass through would determine whether or not a property could be managed. If capital improvements are necessary, there is a cost-pass through provision for that.

Mr. Pierce said that without the pass through the land value would decrease as would assessed values and sales would also drop. If deals were done recently changes to the Ordinance could negatively impact them.

Mr. Carney said that 8% is only working on the part of the owners because it provides them enough profit. This discussion is happening because displacement is happening. Many people don't know that they live in an ARO apartment, which may be artificially reducing petitions.

DRAFT

Ms. Neely said that if the rent increase is within 8% a tenant can't petition regardless of a person's ability to pay.

Mr. Gonzalez said that he isn't seeing displacement because he actively works to keep his tenants. Because only .4% of tenants have complained, there can't be a problem. Believes that displacement is happening in market rate units. Believes that education is necessary and the City should directly contact tenants to let them know.

Mr. Carney said that many people aren't able to file petitions because the current rate is allowable but is too high. Displacement is happening.

Mr. Scott said that it's hard to discuss these topics separately because all topics are interrelated. Is concerned that the outcomes of other cities haven't been provided. No rent control is the best outcome. San Jose is less bad than other cities. Does not agree that San Jose should gravitate toward the positions of other cities. Rent control provides a disincentive to investment.

Mr. Howard said that we should be considering how to make the debt service provision work for both owners and tenants. Perhaps the pass through should be amended to take into account the lending market's economic restrictions. 65% rent increases is high. The debt service provision can work for all parties.

Mr. Gonzalez said that number of total inquiries still doesn't constitute an issue.

Ms. Moore said that many people don't know that they're buying an ARO property.

Ms. Inglis said that debt service should be eliminated. It's improper to pass the risk of ownership on to tenants for uninformed business decisions. Other provisions of the ordinance provide a fair and reasonable return but the debt service provision is not an appropriate avenue. Many corporate landlords who purchased properties during the foreclosure crisis are offering subprime "landlord loans".

Ms. Morris said that the provision does not prohibit excessive rent increases. The debt service pass through should be eliminated.

Ms. Rosenblatt said that when people feel powerless they don't speak up. The number of client interactions or petitions with RRRP is not indicative of there not being a problem.

PUBLIC COMMENT:

Owner: Costs for capital improvements are often borrowed over ten years. It's important to be able to pass along those costs. Provided an example.

Owner: Not all costs are covered by pass through. Small landlords can't handle the pass through. Especially because English is a second language for many.

Owner: The cost incurred by a landlord due to tenant neglect or damage is huge. This isn't normal maintenance. Owners have to hold those costs for a year before it can pass on costs.

DRAFT

Owner: Remodeled a unit and found water damage. Repairs cost 30,000 but he can only pass along a certain percentage of the cost. Many costs can't be anticipated.

Owner: Didn't know about pass throughs before tonight. Believes she would need a lawyer to follow the process. Uses the annual allowable increase to operate – not pass throughs.

Owner: Price controls and wage controls were implemented during WWII because of an emergency.

Tenant Advocate: 8% is too high. Landlords aren't using the pass through process. 8% was set at inflation – not to avoid the pass through provisions. Questions: Data on market cycle – how low do the rents go? Who are the landlords? [Portfolio]

Tenant: Curious that landlords are making an investment and then transferring the risk. Landlords should understand that their need to carry the risk. Debt service increases speculation.

Owner: Opposed to including duplexes. Close to retirement; bulk of retirement invested in property. Needs to be able to sell.

Tenant: Debt service allows one to transfer the risk to tenants. Price gouging is bad. People in San Jose

Tenant: San Jose is the only city in the area with this sort of ordinance. It's unfair to tenants to pass on risks to tenants. Has been displaced. Many friends have been displaced or have moved out of the area or the state. Not fair to renters.

Owner: Over the last 5 years interest rates have been very low. The change in debt service pass through is impacted by the interest rates. Debt service allows for properties to be maintained.

Tenants: Debt service provision is a luxury to owners. Debt service displaces renters. Maybe one solution is to increase the minimum wage. Need to find a middle ground.

Owner: Costs go up for all things. Asks tenant committee members to understand that business costs go up. He is a flexible owner and City should make the policy comprehensive.

Tenant: Believes that the City should continue to look at amending the debt service pass through. More education is necessary.

Owner: 8% is essential because cost pass throughs are very difficult. Tenants don't pay rent and then are evicted. Vacancy is expensive and so is damage incurred by tenant. The process is too complicated. It's drafted by attorneys – too difficult.

Mr. Howard asked if the committee should be offering specific recommendations and when that would take place.

Mr. Chen responded that the committee will have an opportunity to

Ms. Morales-Ferrand noted that this topic will be referred to the next meeting for specific changes to the debt service pass through. Other questions and data requests will be provided as well.

DRAFT

Ms. Moore said that she would like to know how many bedrooms were in each other unit.

Temperature check question – deferred to 10/28/15 meeting

(e) Open Forum

Tenant: Renters in San Jose need just cause eviction protections and a 2% cap. Overcrowding is a symptom of high rents. People living in poverty are struggling to pay for basic needs.

Owner: Understands that many people can't afford rents. City needs to handle this problem – not owners. New units are driving up rents.

Property Manager: Rent control reduces the availability of units. Tenants' mobility decreases in rent control units. It only benefits current tenants.

Owner: Ability to raise rent should not be restricted because costs change across the economy, which is counterproductive to a fair and reasonable return. Owners don't want to deal with pass-through.

Owner: Median rent should be provided instead of average rent. 2% of economy supports rent control. San Jose is the birthplace of innovation. Policy suggestions should be outside the box. Tech is starting to lay people off and the next cycle is coming.

Owner: The costs of maintenance are at least fronted, and often amortized over 30 years, which doesn't produce much as a tax write-off. Tech layoffs are happening and next cycle is coming.

Tenant: Always lived in San Jose and doesn't want to move. Has been homeless – that's survival and far beyond buying a building. As speaker has advanced himself his standard of living has gotten worse. Rent went up 21% and had to move – even with two people working 50 hours a week.

Owner: Sent out 4,300 postcards about rent control. One of three questions asked today was from a WWII veteran owner. Should treat him more fairly.

Resident: Rent control doesn't work because it creates two tiers of housing and people stay in the units that are below market. Taxpayers want the government to solve the affordable housing issue by providing supply.

Owner: In CA only five jurisdictions have just cause eviction ordinances. Each of those cities has high crime which is a strong correlation.

Tenant Advocate: Increasing rents causes great hardship for tenants. Vacancies are created to bring in people who can afford higher rents. Pass throughs increases this type of displacement.

Owner: Landlord 30 years. Never evicted tenants but many don't take care of properties. Has a lot of empathy for tenants who are struggling but the City should not get involved in regulating the rental market.

Owner: Can't predict all costs like gas prices, utility costs, etc. Asked that presentations be provided prior to the meeting.

DRAFT

Tenant: The middle class cannot keep up with an 8% increase. Minimum wage isn't going up. Family has moved out of state even though they settled here. Why are these cycles continuing to happen?

Owner: Don't fix what is not broken. Pass throughs were created for a reason. Repairs are expensive. Process for pass throughs is not easy so it's only utilized when it's really necessary. If there isn't enough money, there will be more deferred maintenance, which will lead to less supply.

Tenant: Has had a very hard time finding housing and has moved many times this year. Being a full time student and worker is very difficult, especially when the housing market is so expensive. Being a rental housing owner is a privilege. Privileges shouldn't be considered over rights.

Owner: Cost pass through doesn't increase profits for the landlord because it's based on true costs. No business can stay in business if it can't break even. Rent control doesn't bring more supply. Rent control shouldn't be changed.

Owner: Tenants and City go after Owners when rents are unaffordable. Small owners don't make much money and work a lot. Tenants are in a better position than the owners.

Tenant Advocate: Property owners are not an oppressed group and they aren't a poor group. Rent control is broken. Working on an "all solutions" approach - not just about rent control but pursuing many changes.

Tenant: People are about the homeless. The middle class cannot live here. His passion is really a transmission of pain of those who are scared and impacted and being displaced.

Owner: All the tenants seem to feel that every landlord is charging 8% every year. Suggests that the City host a questionnaire to determine the actual rents and rate of increases over the last two years.

Owner: Over the last 20 years the Valley has been cycling through boom and bust but keeps improving. This is because people are working very hard. Those who work hard and save money to purchase properties. This is good for everyone.

(f) Adjourn Facilitator Shawn Spano adjourned the meeting at 8:52 pm.



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Pública:
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Item # E
Número de artículo

{ ① cert
* { ② predictability
③ fairness

{ disclosure
to CL re:
ARO?

W/in 5 days of filing notify tenant
notice of rent increase

- address tax issue - ~~tenant~~ landlords
- write off's

over continuado

OR send your comments to o envíe sus comentarios a
Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

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Item # e
Número de artículo

* Costs increase periodically - yearly etc.
* S

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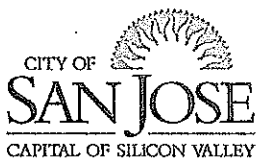
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Item # _____
Número de artículo

Slide 19 % increase effect of
higher real estate costs
rather than interest rates
% increase is higher on low
rents.

over continuado

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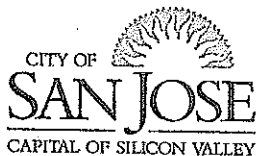
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Item # E
Número de artículo

I am a small investor
I am unable to go
through the process of
Cost Pass Through Provision
⇒ 8% allowable Increase is
necessary

over continuado

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Item # _____

Número de artículo

Cost is cost! Cost pass through is not going to increase a penny of profit for the owner. The owner applies for cost pass through is only to bring losses situation back to break-even. This is not about greedy property owner trying make a windfall. Just to cover the cost.

over continuado

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San Jose rent control is not going to increase any affordable housing or help any more low income families. It is designed to make landlord to provide subsidy to the tenant.

thank you

gracias



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Item # _____
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Small investors.
There are always expenses related to
damages / repairs.

over continuado

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- Owners don't participate in pass-through program due to lack of knowledge & complication of program. Plus we can work with BJA incentive to cover capital improvement
- Expense can be unpredictable due to things like recession, drought, & gas prices
- We have reduced rents during economic down turns

over continuado

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Talk about Rent profitability.

over continuado

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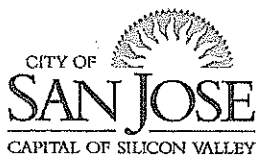
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Item # open
Número de artículo

Middle class cant keep
up

over continuado

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Item #

Número de artículo

(f)

Re: public though it's too complicated
there really a few home providers
(1) are using this, most of them
don't understand the requirements
and application process too complex.
(2) got a few suggestion to solve
problem. think outside of box

over continuado

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Item # open Forum
Número de artículo

tenants

① Reduced ~~costs~~ mobility by reluctant
to move on because the low price and
only benefit the current one there are in the
unit.

② Consumer Entry Cost
In many rent controlled communities they
have to pay a finder fee to obtain a
unit. a gray market are developed in
which units are pass among friends
or family member.
over continuado

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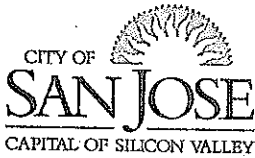
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Item # F
Número de artículo

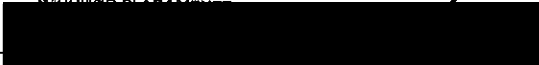
It is unfair that
Rent Control only applies
to building built before a
certain year.

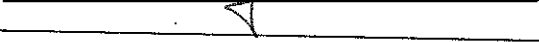
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Item # 2
Número de artículo

THIS CONTROL WAS AN TEMPORARY
EMERGENCY WAR LAW.

WHICH LAWS WERE MADE TO
INCLUDE WAGES - FOOD RATIONING -
CLOTHES APPLIANCES, etc.

THIS IS THE ONLY LAW THAT SHOULD HAVE
BEEN A SCURFIE LAW WITH A TERMINATION
WHEN WWII WAS DECLARED ENDED
THIS NOW IS AN UNFAIR LAW AS IT
PUNISHES THE POOR AND GIVES over continuado
SPECIAL PRIVILEGES TO THE WEALTHY.

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IT ALSO ADD THE BUDGONS
TO THE SMALL LANDHOLDERS

IT ALSO SEGREGATES THE
POOR FROM THE RICH

EQUAL OPPORTUNITIES ARE

NOT DISTRIBUTED EQUALLY

THE HISTORY OF

OPC OFFICE OF

PRICE CONTROL WAS TO

HAVE ENDED

THIS IS PAST THE TIME

ORIGINALLY INITIATED

ORDER RENTALS HOLD THE POOR

NEW RENTALS ARE ~~BEING~~ ^{BEING} ~~UP~~ ^{UP}

THE RICH

ON LIFE TIME RESIDENTS

thank you

gracias



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Item # _____
Número de artículo

Debt service pay through allow
landlord to get all of their new debt
covered by their customers (renters)
What other business can do this (except
maybe P.D.E). Added to already extremely
high rent just isn't moral or fair.
Some anticipation of future debts must be
considered by property investors before
purchase, rather than a guarantee of being
able to pass these expenses on to renters

over continuado

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SENIOR

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Share Your Comments

Comparta sus comentarios

Item # _____
Número de artículo

It seems more like a luxury
for the owners to even own a
building. Because as a renter
I know I can not even fathom
owning a house let alone a
building. I don't see how Debt
Relief is going to help the
people of San Jose living in an
ARO home. If you raise it
even more how is that going
over *continuado*

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AH10

to help anyone. Its just going to push people out even more to be on the streets or move to a different state. how is this helpful to anyone? Most people if not all are already struggling to pay the rent. Now I understand that the need to pay there mortgage but raising rent doesnt seem like a good cause for anyone but the owners how does this help the tents? I dont think we are looking at the actual cause. Basically people cant afford rent. How does this change? maybe look at minime wage and lowering it ~~2~~ too 2% instead of 8%o. Untill the middle class can actually make it. My parents lived here 16 years ago and they stated that its only gotten worse in CA then in before. How is this happening?

If you dont want Gengercy of Displacement. Maybe dont have your rent so high. Because you will never be able to fill it bc rent is so high. Theres needs to

thank you **gracias**

Be a ~~happy~~ happy medium for everyone



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I couldn't ~~take~~ deliver
This as Public Comment

General Comment for Committee

Share Your Comments

Item # _____

Comparta sus comentarios

Número de artículo

- 1) I purchased a 6 unit Apartment building in horrible condition -
- 2) There were two tenants paying no rent -
- 3) Two evictions - renovation of those units -
- 4) Attempted a Pass Through - one tenant challenged it -
- 5) Got to Mediation - Mediator took 20% of ^{over continued} because a tree branch covered the

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The Building - I settled.

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ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE

REGULAR MEETING ACTION MINUTES

OCTOBER 28, 2015

MEMBERS PRESENT: Matthew Carney
Gustavo Gonzalez
Joshua Howard
John Hyjer
Roberta Moore
Melissa Morris
Elizabeth Neely
Eloise Rosenblatt
Elisha St. Laurent

MEMBERS ABSENT: Aimee Inglis
Michael Pierce
Tom Scott

STAFF:	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Maria Haase	Housing Department
	Paul Lippert	Housing Department
	Ramo Pinjic	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

(a) **Call to Order/Orders of the Day**—Shawn Spano opened the meeting at 6:12 pm.

(b) **Introductions**— Mr. Spano introduced himself, committee members introduced themselves, and members of the Housing Department introduced themselves.

(c) **Unfinished business from October 21st meeting, if any (Housing Staff, Facilitator)**

Mr. Chen recapped the October 21st presentation on the debt service pass through provisions of the ARO.

Mr. Chen asked for clarification on the feedback received last week that the elimination of the debt service pass through would create deferred maintenance issues.

Mr. Gonzales responded that new owners often are purchasing buildings that need significant maintenance.

Ms. Rosenblatt commented that it's important to separate and segment the costs.

Ms. Moore commented that "fair and reasonable" is an important and sensitive definition.

Mr. Howard said that it's important to maintain the debt service pass through provision. Mr. Howard suggested a new name for the pass-through, the "new owner" pass through. The pass-throughs that have

taken place were the result of a purchase. The City should not impede commerce, but believes a 65% increase in rent that is the result of a pass-through to be excessive.

Ms. Morris commented that she does not agree that the debt service pass-through is a necessary provision of the ARO because tenants should not bear the burden of making a building sellable or competitive for financing. The debt-service pass through is not intended to be a tool for refinancing. Ms. Morris does not yet see evidence that eliminating the pass-through would hurt property values, and even if so, the public policy goal of the ARO is not to increase property values. Fair rate of return has be set by the Court.

Ms. Rosenblatt responded to the public comment during the last meeting. The principal concern from owners was the difficulty of use and the lack of knowledge about the process. The bankruptcy proceeding may be a good model to delineate costs and provide clarity on eligible costs.

Mr. Gonzalez said that if the debt service pass-through were eliminated new purchasers will not be able to cover their mortgage payments.

Ms. Moore suggested that simplification of pass-throughs is important for owners. Also, banking of pass throughs is important to prevent ongoing deferred maintenance.

Mr. Gonzalez said he is frustrated with the process because the functions of the ARO are being discussed individually instead of as a whole.

Ms. Morris commented that according to a recent newspaper article the purchase of rental housing, ARO or otherwise is still considered a good investment.

Ms. Moore said that most of the rental properties being purchased in San Francisco are being purchased to take them out of rent control.

Mr. Carney said that he would not feel comfortable if the debt service provision remains as is.

Ms. Rosenblatt said that the major rent increase to tenants needs to be avoided. Regulations or reductions to the allowable debt service pass through need to be built into the Ordinance.

Temperature Check:

Green: Neely, Carney, Morris, Rosenblatt, St. Laurent

Yellow: Howard, Gonzalez

Red: Moore, Hyjer

Absent: Inglis, Pierce, Scott

(d) Presentation, discussion of the petition and administrative hearing process (Housing Staff, Facilitator)

Mr. Chen began the presentation on the petition and administrative hearing process.

Mr. Gonzalez said that the percentage of petitions and ARO contacts is very small.

Ms. Morris said that the ARO stipulates that if owners serve no-cause notices they have to maintain the rent for the new tenant. If an owner improperly raises the rent, what is the consequence for that?

Mr. Pinjic answered that there is no direct consequence from the City. The City makes a referral to private legal counsel.

Mr. Carney asked if the City maintains demographic data of petitioners. He also asked if there are accommodations made for tenants who work in unbenefited roles or need childcare.

Ms. Rosenblatt asked why the City Council took this up as a priority if the numbers are so low. Clearly this is a priority regardless of the numbers available. Is there information for landlords to provide to their tenants? Is there a self-help center for the rental rights and referrals program?

Ms. Moore said that the process should be simplified.

Ms. Neely said that it's important to remember that the only petitions that are eligible are those that are outside of the ordinance, which doesn't mean people aren't impacted by rent increases below the allowable limits. Is there a statute of limitations for tenant petitions?

Mr. Gonzalez commented that the data does not support that this is a real issue.

Mr. Howard asked if the City does any education for new owners. Previously the Advisory Committee on Rents was provided a report on petition activity by quarter.

Ms. Moore: time requirement is tough for both groups. 12 month restriction on eligible costs is harmful for both groups.

Ms. St. Laurent said that the short amount of time to file an eligible petition is very hard for tenants. If the tenant feels that they need legal counsel, they probably won't have time to file. Tenant's first priority is to find housing - not contact the City.

Ms. Rosenblatt said that she knows of a person who had a good experience with the mediation process, but feared retaliation afterward.

Ms. Neely said that she believes that the process is not working for either side. Moving forward, the process needs to be simplified. We don't know what we don't know and it's clear that people don't understand the process.

Mr. Gonzalez said that when he went through the hearing process, it was really unfair. He used the 8% annual allowable to make repairs and was forced to reduce the rent.

Ms. St. Laurent said that the landlords should have to notify the City when tenants vacate apartments because they can't afford rent increases.

Mr. Howard said that the hearing and petition process does not provide predictability and certainty to either group involved. There should be flexibility in scheduling of hearings. The City should notify Owners more regularly of their responsibilities under the ARO. City needs to work with the advocacy organizations to create a better education plan. Further, there should be a firmer definition of a "service reduction" to prevent abuse.

Mr. Hyjer said that the biggest issue with the Ordinance is education. The main issue here is bad actors.

Ms. Moore increased her rents this year in anticipation of the increase. The City should improve its website to provide this information.

Ms. Neely said that from her experience as an education of low income students, it may be helpful to reach out through culturally competent and relevant communication channels - especially for those who may not be documented.

Ms. Morris said that tenants have many barriers to use the petition process. The first barrier is that their petition falls within the annual allowable increase and isn't eligible. Better education is not mutually exclusive to better enforcement. Code Enforcement also needs to be accessible to tenants in this process. Tenants fear retaliation from the petition process because of the no-cause eviction clause. To improve the process the City should focus on education, language access and streamlining the process. Shift to pure mediation and then pure arbitration process. Many cities require registration which would create a robust data set.

Ms. Rosenblatt said that both groups should be educated. Language access is important. Information about the rental rights and referrals program should be posted in common places in ARO apartments, disseminated through chambers of commerce, dv resource, senior, community centers, public law clinics.

Ms. Moore said that the notice period to file petitions should be extended for tenants. Hearing officers should receive better training. Simplify the process and then create an appeal process.

Mr. Gonzalez said that the Realtors use a problem solving process. First step: ombudsman process. Second step: Grievance and potential mediation process. Train the trainer model for school community outreach workers on the rental rights program. The hearing officer qualifications should be reviewed.

Mr. Howard suggested that the group defers item E to Saturday.

PUBLIC COMMENT

Six members of the public gave public comment.

Owner: Bought a seven unit apartment building that needed extensive repairs. Owner raised the rent and one tenant petitioned the rent increase. Went through mediation process. The hearing officer.

Owner: The apartment he bought needed major repairs. The rents were very low at acquisition. People are lucky to have low rent.

Tenant Advocate: The number of petitions is so low because the law is broken and ineffective. The ordinance doesn't work for tenants. The rents are too high!

Owner: Data doesn't support this being a problem

Owner: The petition numbers are so low that we shouldn't be wasting our time talking about this. As an owner, won't file petition because of fear of retaliation and amount of time required.

Owner: The hearing process needs to be fair. The process is too long and complicated for both tenants and landlords.

Temperature Check:

Green: Howard, Neely, Carney, Morris, Gonzalez, Moore, Rosenblatt, St. Laurent

Yellow; Hyjer

Red: None

Absent: Inglis, Pierce, Scott

(e) Presentation, discussion and potential straw poll on data collection, monitoring and enforcement authority of the Rental Rights & Referrals Program

Mr. Chen presented information on data collection, monitoring and enforcement.

- Committee discussion and temperature check deferred to Saturday, October 31st

PUBLIC COMMENT

Owner; City has all of the addresses of ARO units. The City should conduct a survey of ARO units to poll rents. Duplexes should be surveyed separately.

Owner: Data is important but collection should be of all apartments to create a clear data set. ARO apartments are renting for 30-40% below market rate rents.

(f) Open Forum

Owner: In the sale of buildings financial information is considered. Deferred maintenance of commercial buildings is understood after the sale because sellers don't want tenants to be aware of the sale in case the deal falls through.

Owner: The Committee needs to remember the big picture. The worksheet is complicated. The two issues at the heart of the issue - rent is going up and people are being displaced.

Tenant Advocate: Committee should not call into question the Council's direction to review the issue. ARO is supposed to provide security but tenants are still in crisis. The annual allowable increase should be capped at 2%.

Owner: Owners have not been informed of these meetings.

Owner: City should support the owners because they provide housing which helps tenants.

Owner: Owners suffer a loss. Costs are increasing so it doesn't make sense to reduce the annual allowable increase.

Owner: The City offers trainings for owners that she has benefited from.

Tenant Advocate: Before we educate about renters rights, we need renters' rights. The ARO doesn't work for tenants.

Owner: If the City only follow the tenants' interests only, the owners will be left with nothing. If it reduces the cost pass-throughs the owners will be left with zero. If the owner has zero, what's left for the tenant?

Owner: If the City reduces the annual allowable increase, there will be more mediations. The City should segment data between large and small landlords.

Owner: Rent control does not increase housing availability. Reducing the annual allowable increase will reduce the number of units available. When leases end both parties should have the right to terminate the lease.

(g) Adjourn Facilitator Shawn Spano adjourned the meeting at 8:27 pm.

Public
Discussion:
Updating the
ARO
Apartment
Rent
Ordinance

Discusión
Pública:
Actualización
de la ARO
Apartamento
Ordenanza de
Arrendamiento

Share Your Comments Comparta sus comentarios

Item # _____
Número de artículo

① RC does not increase house number
But decrease house availability.

② Lease agreement has its time
interval. When the lease expires,
both sides should be able to
continue or stop.

over continued

OR send your comments to o envíe sus comentarios a

Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

PRINT CLEARLY

IMPRIMIR CLARAMENTE

Name Nombre : _____

Email Email : _____

check all that apply marque todo lo que corresponda

☐ I live at an ARO apartment

Vivo en un apartamento alquiler ordenanza.

☐ I own or operate an ARO apartment

Soy dueño o opero un apartamento alquiler ordenanza.

☐ I am a member of the public. Soy un miembro del public.

Share Your Comments

Comparta sus comentarios

Item #

Número de artículo

e

I need help in understanding
the process. YOU WANT TO
CUT INCREASE TO 2% so where
is the 6% lost to be made up.
I KNOW YOU WILL NOT LOWER
MY TAX 6%.

over continuado

OR send your comments to o envíe sus comentarios a

Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

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ARE ABLE TO TELL

PG&E ONLY 2% increase
a year. Phone, Cable, Internet
the same for them.

thank you

gracias



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ARO
Apartment
Rent
Ordinance

Discusión
Pública:
Actualización
de la ARO
Apartamento
Ordenanza de
Arrendamiento

Share Your Comments

Item # _____

Comparta sus comentarios

Número de artículo

Data for all apartments

over continuado

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Share Your Comments

Item # d
Número de artículo

Comparta sus comentarios

City is wasting ^{taxpayer} ~~public~~ money & ^{public resource} ~~resident~~
petition is < 1%, there is no reason to do any
changes.

Tenant petition limits: Fear of retaliation,
Lack of time/resource, Language barriers
Cultural factors, ~~Decision~~ We landlords have
all of these, and more.

over continuado

OR send your comments to o envíe sus comentarios a

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2nd priority to address housing issue

thank you

gracias



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Ordenanza de
Arrendamiento

Share Your Comments

Comparta sus comentarios

Item # _____
Número de artículo

Why 2% only.
are you going to lower
taxes 6%
Are you going to make
PG & E only go up 2%
over continuado
a year!

OR send your comments to o envíe sus comentarios a
Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

About You Acerca de usted

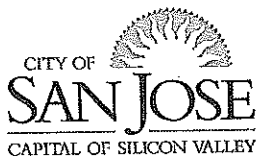
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Public
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Discusión
Pública:
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Apartamento
Ordenanza de
Arrendamiento

Share Your Comments Comparta sus comentarios

Item # _____
Número de artículo

Why are you punishing
three of us older (1974 older) units
and not those newer units
The newer units are the ones
raising the rents

over continuado

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Share Your Comments

Comparta sus comentarios

Item # _____
Número de artículo

My name is [REDACTED] I am
a property owner and my apts
are under rent control since the
start of the program.
I've attended several meetings
and I've heard several advisory
committee members mention the
need for education. As an owner,
I've attended City sponsored
training entitled "Project Blossom,"
or education of property owners.
(Heavens rent control and many
pertinent information)

over continuado

OR send your comments to o envíe sus comentarios a
Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

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Name Nombre: [REDACTED]

Email Email: [REDACTED]

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It is my understanding that the City of San Jose collects ^{multiple housing} fees to provide this training. I believe that an owner was eligible to attend this training every two years. I've contacted Code Enforcement about the program and the obvious lack of information ^{for past 2-3 years} in the program. I was told that it would be offered this past spring, that it was being modified. It concerns me that fees have been collected from owners for this training and it is not being provided. I believe that the fees are collected through the multiple housing permits. What happened to those funds? And more importantly the training?

thank you

gracias

ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE
REGULAR MEETING ACTION MINUTES
OCTOBER 31, 2015

MEMBERS PRESENT: Gustavo Gonzalez
Joshua Howard
John Hyjer
Aimee Inglis
Roberta Moore
Melissa Morris
Michael Pierce
Eloise Rosenblatt
Tom Scott

MEMBERS ABSENT: Matthew Carney
Elizabeth Neely
Elisha St. Laurent

STAFF:	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Maria Haase	Housing Department
	Paul Lippert	Housing Department
	Ramo Pinjic	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

- (a) **Call to Order/Orders of the Day**—Shawn Spano opened the meeting at 10:08 am.
- (b) **Introductions**— Mr. Spano introduced himself, committee members introduced themselves, and members of the Housing Department introduced themselves.
- (c) **Unfinished business from October 21st meeting, if any (Housing Staff, Facilitator)**
- 1. Presentation, discussion and potential straw poll on data collection, monitoring and enforcement authority of the Rental Rights & Referrals Program**

Mr. Chen presented a recap of the unfinished business on data collection, monitoring, and enforcement function of the ARO.

Mr. Gonzalez reiterated his interest in creating an ombudsman program and training community outreach staff in the school districts.

Ms. Moore stated her interest in an increase in enforcement because it protects the responsible renters from slumlords. The City should institute a 90-day statute of limitations for a tenant who has received a no-cause eviction to report and seek damages from a landlord who does not maintain the rent level for a new tenant.

Mr. Scott said that much of the data collection can be outsourced to third parties instead of the City. More education is needed.

Ms. Rosenblatt said that it's important to establish the appropriate context for data analysis, such as homeowners/renters and demographics/specific populations like persons over 65 and students. It's important to understand the needs of vulnerable populations.

Ms. Morris said that it's necessary to remember that the collection of data is necessary to have local data to analyze. It is important to understand what the City is doing to affirmatively and proactively enforce the ordinance.

Mr. Pierce said that the City should better track the supply and demand balance of housing. Planning decisions directly impact the supply, which drives up rents when demand is high and supply is low.

Ms. Moore said that while she agrees with the need for a more robust program, but does not want an expensive beaurocratic program.

Temperature check:

Green: Hyjer, Inglis, Moore, Morris, Rosenblatt

Yellow: Gonzalez, Howard, Pierce, Scott

Red: None

Absent: Carney, Neely, St. Laurent

**(e) Presentation and discussion on the consideration of a just/good cause eviction ordinance
(Housing Staff, Facilitator)**

Mr. Chen presented information on the current termination of tenancy, the unlawful detainer process and the provisions of just/good cause provisions in other cities.

Mr. Scott stated that the presentation did not include important laws, including the noticing requirements or housing discrimination.

Mr. Howard said that the San Jose Ordinance already requires specific protections for tenants, which are material to the discussion and not presented in the presentation.

Ms. Moore asked the definition of "duress" on slide 9 and the qualification of illegal subleasing. Are there provisions to protect owners from harassment?

Ms. Morris said that California law stipulates 30 and 60 day noticing dependent on the tenure of the tenant. The 90 and 120 day noticing requirements are stipulated in the ordinance. It's important to remember that if a tenant does not vacate the unit at the end of their notice, the landlord will go through the unlawful detainer process. When a year lease converts to a month to month lease, the landlord will serve a 30-day notice, 30 days prior to the expiration of the lease. The five day answer period during the unlawful detainer process is not a period for the tenant to comply. When a tenant is offering an affirmative defense, citing discrimination, the burden of proof is on the tenant.

Mr. Gonzalez said that the data does not support there being a problem the current no-cause provision. As a landlord, he does not want to evict a tenant that is responsible. Evictions are expensive because of the work required, lost rents, lost tenants. Owners can lose 2-3 months of rent, and on average, cost 10-15k per case. The City doesn't need policies to protect good tenants – the landlords already do that. The unintended consequences of just cause include the voluntary move-out

of good tenants while the eviction process proceeds for a bad tenant. Evictions typically take 3 months from when the problem starts to when unlawful detainer begins. Landlords typically provide a grace period for tenants who cannot pay rent. When eviction notices are served, tenants get upset and may damage the unit. Also, Judges may issue a judgement that provides additional time for a tenant to move out.

Ms. Moore asked if a tenant violates the lease in a non-material way, if the tenant can be evicted or not.

Mr. Pierce said that if a tenant cures the issue within the 3-days of the notice, the issue goes away. The process restarts each time they re-violate the lease.

Mr. Howard asked if City Attorney staff was available to answer questions about the legal issues pertaining to just cause eviction.

Ms. Moore said that there are professional tenants that know the process and move around apartments and not pay rent. Ms. Moore offered an example of a tenant that was disrupting the community by vacuuming in the early morning hours. Complaining tenant would not provide a written report of the issue.

Ms. Rosenblatt said that she has experience evicting squatters and the process is lengthy. Nuisance includes a range of problem behaviors, including domestic violence, which expands beyond poor people. Ms. Rosenblatt offered that the Housing Department provide a lease addendum outlining the rights and responsibilities of tenants and owners that include just cause.

Mr. Hyjer said that just cause is essentially blanket amnesty for tenants. His company has litigated just cause evictions on many occasions and never prevailed. Just cause is a failed concept.

Mr. Scott said that the relevant question is not about whether or not the owner needs cause to evict, but rather if the owner should have to state the cause and prove the case in court. There are many questions that can be raised as defenses which take a long time to resolve. Jury trials cost landlords \$30,000 when legal aid attorneys are paid by a grant. The majority of the time, owners have a good reason but would prefer to not litigate.

Mr. Howard said that just cause is in place to prevent property owners from serving no-cause evictions to increase the allowable rent increase. This issue was dealt with in 2003 when the noticing requirement was put in place with a unanimous vote from the City Council. Instead the City should enforce the serving of the 90 day notice provisions. Often owners help tenants find new housing after serving a notice. Creating a just cause ordinance would force owners to serve the tenant with an eviction, which damages their record. It's important to think about which body will create the just cause ordinance and whether that group will politicize the process. Crime free housing is currently being discussed by the City Council, which will impact the just cause framework. Displacement of good tenants, as well as bad tenants that would've avoided an eviction under the no-cause notice.

Ms. Rosenblatt said that issues with the just cause procedures should be directed to the State government.

Ms. Morris clarified that the Court process can't be modified by the City. The City can set the reasons for cause. Specifically speaking to the question of fairness its necessary to balance the burden on landlords to go to Court under Just Cause, with the extreme burden on tenants under the no-cause eviction. The self-help center is only open for a partial day, twice a week to support tenants through the process. Most tenants are not represented in court. The 90-day notice is not an effective substitute for just cause.

Mr. Gonzalez said that just cause would offer no certainty, predictability or fairness to owners. It's also not fair to good tenants who have to live with bad tenants under an extended removal process.

Ms. Inglis: Many tenants are afraid to call code enforcement because of retaliation. Just cause provides the tenant greater certainty that landlords can't or won't retaliate against them. Displacement impacts different socio-economic classes differently.

Mr. Pierce said that state law is already imbalanced; tilting towards tenants because of the difference in noticing terms. Landlords have a duty of care under the law, which most take very seriously. Just cause does not provide a landlord any safe harbor under the law because it ties the hands of landlords trying to manage their property and keep tenants safe. Offered an example of a tenant who was making threats against management and other tenants; issued a 3-day notice to quit and lost the case in court. Owners don't have a mechanism or resource to get free help with the eviction process. Just cause offers no stability. It's fairly simple for a tenant to terminate a lease.

Mr. Scott said that retaliation is a serious. Some tenants don't have a fear of retaliation when they knowingly and willingly violate the law. If a tenant does file a retaliatory claim, the burden of proof shifts.

Ms. Morris said that the self-help center does provide free help for owners. Acknowledges That landlords don't often file no-cause notices without a reason but some reasons are trivial or are illegal. Examples: tenant didn't say hello to landlord, tenant requested a reasonable accommodations for a disability, tenants are said to be strange. The ability to give a no-cause notice puts them in a position to lose their housing without understanding the reason. Most evictions are based on non-payment of rent. If landlords are in a position where they need to document the reasons for evictions that may cause the landlord to have a more of a presence on the property. Just cause eviction does not prohibit an owner from providing a tenant more time.

Mr. Hyjer said that this should not be misinterpreted as an extreme issue. The data does not show an issue.

Ms. Rosenblatt said that there are other legal means like restraining orders to deal with problem or nuisance tenants.

Mr. Gonzalez said that he would never kick out tenants over a trivial issue. If the issue is an illegal cause, the landlord should be enforced against. The last thing a landlord wants to do is to retaliate. The issues discussed today are all being discussed under the context of the laws we have today – not just cause.

Mr. Pierce said that owners are prohibited from discriminating against those with disabilities. Owners use no-cause noticing to ensure the quiet enjoyment of the property. The majority of owners are good people. Bad owners should be enforced against.

Ms. Moore said that 99% of owners and renters are good people. New laws won't be followed by the 1% of bad apples either. Both sides are afraid of retaliation. Tenants won't testify in court and owners don't have attorneys on retainer. The definition of substantial violation of the lease is important.

Mr. Pierce said that there is no change necessary to the program because good tenants are not being given 90-day notices.

Mr. Gonzalez shared Mr. Pierce's statement and said that there should be an expedited process for removing bad tenants.

Ms. Rosenblatt said that education and enforcement is important.

Mr. Howard asked if the any of no-cause notices resulted in residents asking staff for assistance. Mr. Howard subsequently asked how many 60 days resulted in an arbitration hearing. Lease agreement already provides protections because it stipulates the rights and responsibilities of both parties.

Ms. Inglis said that a just cause program should acknowledge the imbalance of power between landlords and tenants. Most tenants are good tenants because they want housing. Any program needs an education component. In San Francisco the City just had to tighten up the language around "substantial violation of the lease" because owners were getting so good at finding cause.

Ms. Morris said that a thoughtfully constructed just cause ordinance would serve the purpose of the ARO. Tenants don't often get to make a choice about where they want to live, even if they have a bad landlord. This public policy will be applied broadly.

Mr. Gonzales said that legal fees are expensive for owners. Just cause will add more bureaucracy to solve a problem that impacts very few people according to the data.

PUBLIC COMMENT

Owner: Owner since 1989. Has problems with renters on an annual basis. Owners are trying to protect good tenants from bad tenants. 90-day no-cause provisions make dealing with bad tenants very difficult.

Tenant Advocate: Lives in rent control unit and attorney. Landlord often notice tenants for improper causes. Just cause balances power.

Tenant Advocate: Landlords don't understand that the good tenants are subjected to an arbitrary power. Would it be okay if the City evicted landlords for no reason?

Owner: State law deals with the issues represented in today's topic in a satisfactory fashion. The law has been around for 45 years and has served San Jose just fine. Expansion of the program will just increase staff and be expensive.

Tenant: Evictions need to be fair and the parties need a balance of power.

Owner: Many other cities have rejected just cause recently. The problem is that landlords are using the 90-day notice to increase rents. The City needs enforcement of 90-day notices, not just cause.

Jose Salcido: Experience with Hoffman-Via Monte neighborhood is that both sides work together to get out bad tenants and the tenants are very concerned about retaliation. Just cause will make that process more difficult.

Owner: Laws are supposed to help people. Just cause will make tenants life harder when bad tenants can't be evicted. Just cause will also discourage investment in San Jose rental housing. No one wants to invest in San Francisco.

Tenant Advocate: This issue is before the group because people are being forced out of housing and rents are being raised exponentially. Just cause eviction ordinance is necessary.

Owner: Absence of just cause ordinance helps tenants. His residents were afraid of a drug ring that had been established in his building. Filed unlawful detainer for non-payment of rent but the process took quite some time.

Owner: Good tenants won't need this law because they don't break the rules and are already protected by the owners.

Owner: Broker, manager and owner of ARO buildings. Have not evicted more than 3 tenants in 20 years. Use no-cause evictions to help tenants find new housing, or tenants correct their behavior.

Owner: Laws shouldn't be changed because people aren't following them. The City should enforce its existing law, not change the eviction proceedings.

Owner: Good tenants need protections. Bad tenants create a bad living environment for tenants. Owners need venue to deal with bad tenants.

Owner: Understands that the ordinance is intended to protect renters, but just cause will give bad tenants too many protections.

Owner: Everyone has the right to be treated equally and fairly. If just cause is applied, it should apply to both parties – tenants should have to provide reason for choosing to vacate the property.

Owner: In an education setting the teacher would be the landlord and students are tenants. Bad students are hard for landlords and are disruptive to the learning environment of tenants.

Owner: Tenant didn't pay rent and the unlawful detainer process took a long time to use, all without rent payment. Owner lost \$10,000 through process.

Owner: Stability is important for small landlords. Normal landlords don't evict tenants, even when they are scared, because they need rental income and don't want vacancy.

Owner: Landlords won't use eviction process because it's a last resort.

Owner: Just cause drives away good tenants and keeps bad ones.

Owner: Many tenants are very nice and would never evict them. Sometimes when difficult situations occur they have used 90-day notice because the standard of proof is hard to meet for unlawful detainer.

Owner: Has never had to evict tenants. Just cause would prevent him from removing a bad tenant and maintaining a safe neighborhood. Eviction process is too expensive.

Owner: Landlords don't want to evict good tenants. It's expensive to evict tenants – loss of 3 months of rent, plus the legal process. Could be about \$10,000 to remove bad tenants. People should think about how they would feel if the criminal was their neighbor.

Tenant: Owners should put themselves in the tenant's shoes. Used to manage apartments and when tenants had to be moved, they followed the law and recaptured the money owed to them. Kicking a tenant out of their home without good cause is shameful.

Tenant advocate: Tenants often get evicted for the reasons of just cause. It is already happening. People should go to eviction court and watch how easy it is to evict a tenant.

Resident: Just cause evictions take away the owners' rights to manage their property in a way that creates a safe community.

Owner: The standard of proof is too high to prove in for-cause evictions.

Owner: Rents to section 8 tenants. Just because other cities have just cause doesn't mean that the policy is good.

Owner: Small owners don't have the resources to manage the eviction process. Owners need stability as well.

Owner: May get out of the rental housing business if just cause is put in place because of the impact to her bottom line. Just cause does not stabilize rental market.

Owner: Just cause will cause a chain reaction that hurts the rental market because good owners will have fewer resources to create a good and safe community.

Owner: Owns property in Oakland and had a bad tenant.

Manager: 45 years. Constantly evicting people from buildings for cause. Just cause will turn San Jose into East Palo Alto and Oakland.

Owner: Small landlord for 20 years. City should have a crime free policy, not just cause.

Owner: Just cause will hurt ability to create safe housing and will not impact the housing shortage. Don't turn San Jose into San Francisco.

Owner: Just cause is a bad policy. Eviction is not an easy process. Tenants know how to slow down eviction process, which took 6 months.

Owner: Evicting tenants cost money. Good tenants should not worry about eviction because they won't be evicted. No one wants bad tenants to live there. Just Cause will bring down city.

Tenant: Opposed to just cause provision. Has a good relationship with landlords and has never feared eviction. Just cause only helps bad tenants.

Tenant advocate: In favor just cause. Earlier this year there was a fire on story road because a bad landlord didn't manage their building. Tenants were afraid to come forward with code complaints because of retaliation.

Owner: Just cause removes rights of owners to select who they do business with.

Owner: Opposed to just cause because it makes removal of bad tenants more costly and time consuming. Chose to invest in San Jose instead of San Francisco.

Tenant Advocate: Tenants can't protect themselves from bad landlords, just like landlords have said they need protections from bad tenants. This leads to abuse of tenants.

Owner: Just cause creates a corrosive relationship between tenant and owner.

Temperature Check

Green: Inglis, Morris, Rosenblatt

Yellow: None

Red: Gonzalez, Howard, Hyjer, Moore, Pierce, Scott

Absent: Carney, Neely, St. Laurent

(f) Open Forum

Owner: Experience in eviction court is that you have to have evidence with statements.

Tenant Advocate: Tenants need protections. There should be a 2% cap on rent increases.

Tenant: Received a 16% rent increase and 8% increase. Wages aren't tracking with rent.

Owner: 37 years of management and have only done a few evictions.

Owner: Enforcement is important to ensure that bad landlords aren't abusing tenants.

Owner: Rising rents are the symptom of a lack of supply that is overly in demand. What are we going to do to build more housing?

Owner: Changing the ARO will change the relationship between tenants and owners.

Tenant: We need to find a way to collect better data.

Owner: High rents are not going to be solved by rent control. Supply is the solution. People in need should access a government fund to help them pay rent.

(g) **Adjourn** Facilitator Shawn Spano adjourned the meeting at 2:07 pm.



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AS A DISTRICT 10 COUNCIL ASST.
I HAVE BEEN WORKING
WITH THE HOFFMAN VIA MONTE
PARRA NEIGHBORHOOD. I REGULARLY
COMMUNICATE WITH PROPERTY
OWNERS AND I CAN TELL YOU
THEY UNDERSTAND THAT THE
NO CAUSE EVICTION IS A LAST
RESORT. THEY DO NOT MAKE
EVICTIONS WITHOUT FACTS

over continuado

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AND I REGULARLY OFFER
CITY SERVICES TO THE
OWNERS FROM POLICE SERVICES
GANG PREVENTION, CODE
ENFORCEMENT AND SUPPORT
OF MEDIATION. OWNERS
ARE WILLING TO GIVE
TENANTS THE TOOLS
THEY NEED TO BECOME
RESPONSIBLE NEIGHBORS.
THAT BEING SAID, NO
CAUSE EVICTIONS ARE
NEEDED TO KEEP
NEIGHBORHOODS SAFE
FOR THE RESIDENTS
LIVING THERE.

thank you

gracias

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Pacific, Mt. View, San Mateo,
Burlingame, Oakland, the
League of Women Voters, etc.
are all AGAINST just GOOD CAUSE
since it is BAD LAW.
• Usually the only witnesses are
other tenants who are
always reluctant to testify.
• Actually proving that all the
late night "visitors" are
actually buying drugs

over continuado

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• Making it difficult to remove
problem tenants provides
no additional housing.

thank you

gracias



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Any eviction followed by raises in rents are
would be suspicious especially since there are
parts of this ordinance that are not being
used that would be of benefit and the city
its neighborhoods.

over continuado

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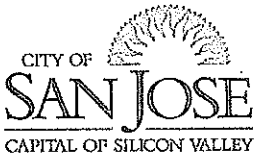
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support for just cause

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QUESTION

WHAT EFFECT DOES VOLUNTARY OR
INVOLUNTARY/ EVICTION/ NON-RENEWAL
HAVE ON LANDLORDS ABILITY TO
RAISE RENT

over continuado

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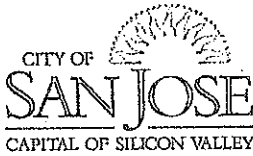
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Item # 6
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Just cause eviction is not a solution to today's shortage of rental units in the market. Instead it makes the problem worse. The only group of people who benefit from this potential ordinance are the attorneys, who obviously get more business. It significantly adds landlord's operation cost, which eventually gets reflected in the rental price, and all tenants (mostly good tenants) have to pay for it. So it is not fair for the landlords
over continuado

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and most good tenants.

In my friends circle, we have many small landlords who own 1-3 rental units. We don't have the resource to collect evidences and fight in courts.

As a landlord I have all good wells to keep my tenants in their home. I do not easily think about evicting a tenant. I always try all efforts to work out a solution with ~~my~~ unwanted tenants. But being a landlord for long enough you will hit a few evictions cases anyway. We wanted to avoid such a law that makes the process unnecessarily complicated.

(30)

thank you

gracias

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Item # 2
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Just cause eviction is to allow bad
tenants stike around to drive good tenants
away. Also, it is not an issue we are facing.
This discuss is wasting taxpayer's money.
All leases are contracted between tenants &
landlord. Both sides agreed only one year commitment
after that, both have freedom to do whatever
they want to do. Just cause gives tenants
right to freely leave, but not allow landlord to
freely take their property back. Our issue is
low income renters can not catch up over continued
high income renters bidding rent price.

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1. SAFETY AND QUIET ENJOYMENT OF OTHER RESIDENTS.
2. FOR EXAMPLE, SMOKERS, NOISY TENANTS. DISCRIMINATORY TENANTS
3. ~~THE~~ NO CAUSE WILL NOT STOP THE RENT INCREASES
4. IT LOCKS UP THE UNIT ~~AT THE~~ BY THE TENANT FOR AS LONG AS TENANT WISHES
5. UPGRADES WILL NO LONGER BE IMPLEMENTED BY LANDLORDS - INCLUDED
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REFURBISHING

6. VERY COSPLY TO EVICT BAD TENANT THROUGH COURTS OR HEARINGS
7. REAL PROBLEM IS SUPPLY + DEMAND - WE NEED MORE SUPPLY - CITY SHOULD REVISIT THE ZONING ORDINANCES TO ALLOW FOR MORE HOUSING NEW HOUSING.
8. EDUCATION IS THE KEY TO THIS SITUATION / ISSUE
9. HAVE A COMMITTEE / FORUM FOR OWNERS + TENANTS TO RESOLVE THEIR DISPUTES.

thank you

gracias

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Item # C
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Just Cause Eviction will make it
very difficult to evict tenants involved
in criminal activities. Good tenants will
not testify in court for fear of retaliation
by tenants involved in gangs & drugs.

Stability for tenants can be gained ^{over continued}
being good tenants ~~who~~ who follow rules and not
disturb neighbors

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An owner being able to exercise his right to serve a resident a notice to vacate without cause is essential to providing a safe, comfortable residence for quality tenants to reside. I am a property manager and have used these notices to remove undesirable tenants from properties. The reasons vary for why the notices have been served but they range from lease violations, tenants creating disturbances
over continued

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to other residents & potential drug dealers.

Given I don't always have an on-site manager it is hard for me to always gather evidence of these problems so I become reliant on other tenants, neighbors, & my off-site manager if I have one. The last thing I want is my quality residents to move because a few bad people are affecting the community. One may say I can evict these residents but not only does that limit the residents time to locate a new property but for an owner it is expensive and it is a long process that will further strain the City's resources.

Our residents receive copies of the rental rights addendum within the lease and if tenants believed they were being unjustly served a notice to vacate they have the contact information to contact the appropriate officers. This doesn't happen because these residents know the reason they are being asked to leave.

thank you

gracias

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Just cause Eviction hurts the tenant
because it inhibit landlord's ability to
deal with trouble (difficult) tenant.
The problem tenant including drug use,
crime, theft and prostitution in apartment
building. And if there is just cause,
the landlord requires the landlord to
deal with these problem through legal
process. It's expensive, time consuming
and often cause good tenant to flee
over continuado

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the apartment instead of dealing with the bad tenant. It will make our neighborhood worst because one bad tenant can destroy the entire ~~by~~ area.

1. Just cause eviction doesn't protect good tenant it protects mainly problem tenant.

2. Just cause eviction doesn't provide more affordable housing

3. Just cause eviction doesn't help low income tenant to get more housing

4. There is no accurate statistic to show a compelling need to have just cause eviction ordinance

thank you

gracias

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11
E

just cause create entitlement and
destroy any market function.
" Oppose ! "

over continuado

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We ~~1~~ strongly oppose Just Cause
Eviction

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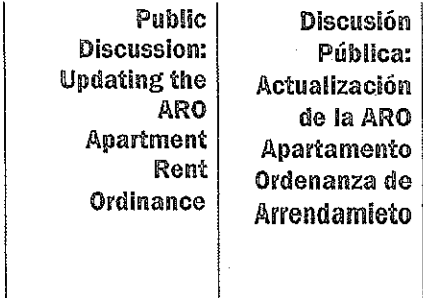
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Against Just Cause eviction

Normal evictions is hard enough
without Just Cause Ordinance which
make life even tougher for
landlord to evict bad tenants.
Good tenants we don't need
a reason to keep.

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"As a landlord I would never exist without good
cause." Great. Then a just-cause eviction
won't hurt you. Reframe the discussion
from whether there should be just
cause but what should the conditions
for just cause be?

over continuado

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Just Cause Eviction

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I am strongly against Just Cause Eviction

It's extremely hard to collect
evidence and witness for Just Cause
Eviction

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I can accept a reasonable
limit for rent increase
but the just cause eviction will
really hurt the home owner. It is
very unfair. Many property owners
will quit the rental market,
while demand is increasing.
This will create more & more
homeless!

over continuado

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I started to worry what if my husband
lost job and we have a problem tenants
under just cause? How can we make
living? become a homeless?

This was happened at 2008
My husband and I both got laid off.

Right now Economic is good.
~~What if~~ We can not think that will
last forever. What if economics go down.
Will you help the owner at that time?

over continuado

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The purpose of being a landlord is that we don't want to become a burden ^{of our city} when our family in case has some difficulties issues. What if my husband lost his job, what about our life? What about my kids' ^{under} education? Become homeless?

The rent just cause is unfair as it waste the whole community's resources and create an unstable and unsafe environment.

over continuado

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"Just Cause Eviction", a
hostile attitude toward landlord
just scares rental property investors
away and results in worse
rental shortage

over continuado

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Strongly oppose the "just cause for
eviction" proposal in San Jose City.
"Just Cause for Eviction" promotes
the community to go to the wrong
direction. It drives away good
tenants, while keeps the bad tenants
over continuado

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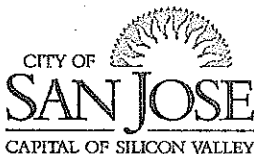
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It protects the bad tenants only.

thank you

gracias



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Item # E
Número de artículo

The unintended consequence is reducing
housing in a tight market. Being afraid of
the difficulties of evicting bad tenants,
owners renting part of their residence will not
bring to the market. Potential investors will
try to keep away from San Jose market, in favor
of other cities without "just cause".

over continuado

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Item # C
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1. It takes more than a month to get permit to get a dead tree replaced.
"Just Cause Eviction" is too much bureaucracy.
2. "Just Cause Eviction" will promote unnecessary lawsuits.
3. "Just Cause Eviction" is not FAIR to landlord.
Landlord cannot maintain a safe neighborhood.
over continuado

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4. We don't need the city to add more cost and time to a eviction process.
~~It is~~ It is already too expensive.

5. The elderly and disabled people should be taken care of by government, not by the landlord. This is a problem of the whole society.

(32)

thank you

gracias



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- ① Just cause eviction is not fair for housing providers
- ② no Landlords wants to evict good tenants
- ③ Just cause eviction is not fair for good tenants
- ④ Just cause eviction is good for bad tenants, criminals.
- ⑤ Eviction is very expensive already
Just cause eviction will make much harder.

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Oppose to Just Cause Eviction

over continuado

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- The ordinance fails to protect a good property owner to get rid of bad tenants and keep good tenants round.
- It makes it become difficult to and costly in general to evict a tenant.
- The ordinance can cause the owner to ~~create his~~ to make it harder for tenant to qualify. Especially tenants who ~~has a~~ over continuado

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~~there~~
a history of eviction. ~~Tenants will with not~~
~~able to find~~

- This ordinance makes it harder to make a living or do business here in San Jose

- Instead of the ordinance, city can raise awareness of how to be a good owner or a good tenant

- It creates ~~toxic~~

(35)

- I feel I lose the right to own my own property. Feel like the city owns my property except the owner has to pay for all costs and bear all troubles.

- This ordinance does not protect a good owner and

- Tenants find it harder to qualify as the owner raise higher qualification to tenant just to avoid future troubles and costs. ^{because} It back fires the tenants as property owner ~~feel~~ become insecure of their rights and only want owner only want ~~go~~ absolute good tenant with perfect record
thank you gracias as tenant.



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Item # 1071 e
Número de artículo

Comparta sus comentarios

~~Tenants face an uphill battle in~~
~~fighting when facing~~

- Since 2008 represent tenants in SCC
- Every one on panel housing dept, city council should go to eviction court WTHF, 9-12 @ Dept 5
- Just cause evictions
- limited resource

D
over continuado

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You should go to auction and

thank you

gracias



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Item # f.
Número de artículo

The only issue we have is lower income
renters can't catch up high income renters
bidding rent price.

How to improve low income's income,
whether government can provide subsidy like
expand Section 8 program, how we can change
our zoning & regulation to allow more construction,
conversant to provide more supplies, How we
can provide public transportation to allow people
to live in a more affordable area as what we
should think. All of the rest is ^{over continuado} hitting the bush
or cause long term damage to the housing market in
the city.

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Item # F
Número de artículo

Comparta sus comentarios

If the city like control the
rent, the city should control
the cost to rent, which include:
1) maintenance cost, TAX, living cost,
real-estate price, Kid's tuition,
... If the city can't control the
cost to rental, it should not control
the rent, it is better of city to
repeal this rent control business
over/continuado

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Item # f
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Oppose.

over continuado

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Oppose.

over continuado

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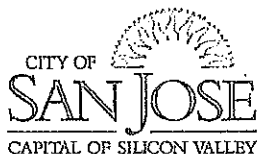
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Item # F
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We strongly oppose rent control,
Rent Control will make things
even worse

over continuado

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Item # F
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oppose just cause

over continuado

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oppose

over continuado

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Item # open forum
Número de artículo

- gram sales are lawful (for the record)
- good data leads to good decisions

over continuado

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against RC change

over continuado

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Item # _____

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East Palo Alto passed
just class action.

Oakland passed that too?

But Mountain View did not

pass. As a San Jose

resident, I don't my city

to be East Palo Alto or Oakland.

Please do just class action.

over continuado

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Comparta sus comentarios

THE CITY SHOULD NOT
CONSIDER A FIRST
CROSS ORDINANCE.

I feel it is not
needed, existing law
is sufficient.

over continuado

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① Government should NOT
control private business
— Let the market
drive the price

② Respect free market
principles that drive
free enterprises in
our free society.

over continued

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f

This may be a new
law and should be
applied to new owners
who understand the law
when making investment
decision. Current or
old owners never have
that chance.

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Comparta sus comentarios

Asset Forfeiture process.

- 1. Illegal activity, such as drug, firearms, ammunition, explosives, child pornography.*
- 2. Police investigated and seized property.*
- 3. Police hand over property to Fed.*
Fed has struck rule on property seizure
- 4. Police kept 80% Property Value*
- 5. Owner has no expertise or means to criminal activity*
- 6. "Just Cause Eviction" should take away*

over continuado

Owner's defense

- 7. Open a liability for city*

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1) just cause → tons of unnecessary litigation
and clutter in the courts.

2) It creates a feeling of hostility because
both sides feel that the other is out to get
them

3) Change is hard. People are unwilling to
step forward.

over continuado

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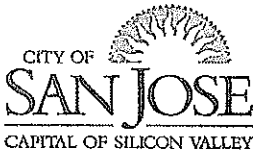
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opposition to 'just cost eviction'

*I ~~say~~ own a small property in SJ, currently have
Just break even because ~~the~~ between the cause an
cost and rent ~~at~~ if no repair cost*

*if the just cost ~~ex~~ eviction ordinance in place
i may have to quit rental my property out
because the chandlengese of removing problem
tenante, if most ^{small property} owner decide to quit thier
property out, it ~~will~~ the consence of that
rental will go up and good tenants could
find place to live,*

over continuado

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"just cost eviction" will not stabilize the rental market but destroy the rental market.

"just cost eviction" will significant impact landlord (owner) economic condition.

Opposition to

"just cause evictions"

thank you

gracias



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I strongly oppose just-cause
law

over continuado

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☐ I am a member of the public. Soy un miembro del publico.

Share Your Comments

Item #

E

Número de artículo

Comparta sus comentarios

~~There~~ I own a multi-units
property in San Jose.
I have opposition to
Just Cause Evictions
because the cost of
removing a bad tenant is
high. It is very challenging and
tiring consuming as well.
We also have regular job
and maintain the property at spare time

over continuado

OR send your comments to o envíe sus comentarios a

Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

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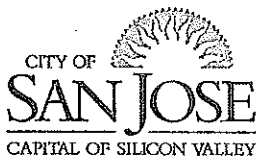
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Public
Discussion:
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Apartment
Rent
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Discusión
Pública:
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so called "cause eviction" is a blanket amnesty
without notice on fair legal society. It invites
professional tenants/attorneys to take advantage
of law/lease binding landlords. It invalidates
legal mutual agreed lease. Mountain View
(over)

over continuado

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City Council have voted to reject
any such "cause eviction". Adversing
such evil red tape is doing disservice
to residents both owner and tenant
who honor leased tenancy, rent and
let there be rent! A crime free
policy instead of "cause eviction"

thank you

gracias



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E

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Oppose RC and Just Cause Eviction

over continuado

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E

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Safety of your neighborhood

over continuado

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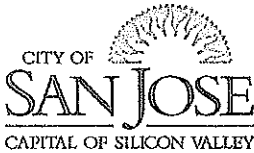
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Item #

F

Número de artículo

I have opposition
to Just Cause online

who has

As a tenant ~~who has~~ been renting for over
7 years I've never had any issues with ^{and of} my
landlord. I've never been evicted or close to that.
All of my friends are on the same boat. The
reason is because we are good tenants. We don't
need a Just cause law to protect ~~us~~ us.
All it does is open up a way for bad tenants
to abuse it. The pure logic of economics
protects good tenants.

over continuado

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Item #

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5

Strongly oppose the Just cause for Eviction
proposal in San Jose.

Just cause for Eviction unfairly protects
tenants. It gives an illusion to tenant
that they are ~~invincible~~ invincible from
the landlords. They would choose
the worst way to challenge the
over continuado

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landlords, bully the landlords,
and finally, the landlords get mad,
fought back, went to the court to
sue eviction against tenants with
bad behaviors... That means,
Just cause for eviction doesn't promote
good behaviors between tenants and
landlords, instead, it encourages
fights between tenants and landlords.
It's bad for both tenants and landlords.

For tenants, the battle would
eventually be lost, due to their bad behavior.

For landlords, it is costly.

It's a lose-lose situation.

Please don't apply "Just Cause for
eviction". It is bad.

(14)

thank you

gracias

Share Your Comments

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Item # Forum
Número de artículo

Against the adoption of a "just cause" eviction ordinance. Advocates for this proposal have misled the public, media and officials about just cause. ~~It's was~~ The ordinance was characterizing a just cause eviction as merely requiring Landlord to state a reason when issuing 30 days notice. It's not that simple. AJCE Ordinance would Force Landlord, other tenants and neighbors to testify in court to evict drug dealers, gang members and abusive

over continuado

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Hi,

I am sharing with you our personal eviction story which is ongoing: tenants didn't pay rent for Sept nor Oct, using various excuses to delay paying, requiring our contractor to visit 3-4 times costing several hundred bucks. Enough is enough, we filed eviction on early Oct and court day is finally set in mid Nov. The cost for lawyer plus court fee, is 1800, fingers crossed, they are out by the end of Nov, looking at 3 months of lost rent totaling 5800, during this period, we still need to pay the mortgage, property tax and absorb the utility costs, setting us back another 3200. Adding up all the costs and lost rents, we are staring at a hole of more than 10 grands just for this unit before tenants even depart, a straight-forward eviction case, *without Just Cause* already tough as is, why make life harder for us? It doesn't take too many cases like this each year to break the back of a small landlord. ~~SF, we all heard horror stories of averaging 50k to evict a single tenant, and eviction attorney is seeking 15k in advanced from landlord before taking on any eviction case....~~

One last parting word: when we are already in a deep hole, the top priority is to STOP DIGGING!

My family and I have lived in the same neighborhood for almost 17 years. Our lives as immigrants here is sometimes difficult because there are many barriers for us to live as God commands. Since we arrived here without any identity to prove ourselves it costs more to get work and housing

If you do not know someone here, you often suffer abuse and discrimination. I remember the first time I said where I lived, my friends told me that my neighborhood is 'hot' and I later learned that had to do with gangs and drugs.

First we lived in a Garage paying \$ 500/month. We had to move out because the owner wanted to rent to someone else. We looked around for other housing, but it was always difficult, a landlord demanded a large deposit and when we found a small studio we paid just \$ 750 rent but soon after we had to leave because the manager required that we showed we had valid social security including my two small children.

There, our cars were vandalized in the parking lot. Parts were stolen off of the truck that my husband used for work and we had no money to buy new parts. It became so difficult that we moved as soon as we could and went to a bigger house because my children were growing into young men.

We were concerned because we would have to pay almost double the rent so we decided to share the house with two other families and lived very crowded. We thought that this situation would be for a short time but we've lived this way for more than two years.

When my children started school, I had to take my kids to the one according to that district.

Their school seemed unsafe and it was far away . We had to walk a lot so I learned to drive, so I decided it would be better to take them to another school in another district. At that point, my kids were well below their grade level so we had to sacrifice further and get up early to get to school on time. I would have liked to have lived near these better schools but the rent in that area was much higher.

To pay rent, my husband has to work weekends and two different jobs. I try to help him but I earn very little, I would like to have my own business but money is needed to get that started.

Recently, I have been very anxious because the owner of the house we rented announced that he was plan to sell it. we spent several months anguishing over the move and the sinking feeling of not knowing what would happen if we were asked us to leave the house.

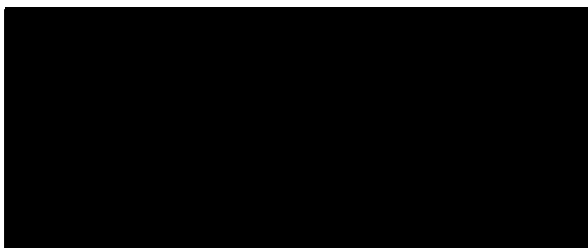
Just the idea of what we would be able to find, a rental house that was cheap and the idea of moving and having to find other schools. we were overwhelmed, and spent nights awake wondering as we were going to do.

We went through a lot of stress and many restless days all that was reflected in our health. I had skin problems , my hair started falling out and I was not sleeping well The family became impatient and irritable very easily. I entered a deep depression and even thought about going back to our country. But that

solution was even more distressing because it means that our children go still suffer more there.

Finally, the new owners agreed to keep renting but the rent has been increasing. My children and I see very little of their father because he constantly works to earn more money and everything is going to pay the rent.

We are still looking for a place where we can live well. We would like to find a home that will not cost much because it is absurd to charge so much for a few old houses I want to live in another neighborhood much better than ours with clean streets, better shops and schools or even better still, to be able to buy a home. But we earn very little and want the best for our kids and with low salaries we can not get what we need .We save money problems and live day to day. In our neighborhood my kids can't even go out and have fun and my kids resent it. Each passing day it all seems more impossible.



Rent Control Advisory Committee 10/29/15

When a debt service regulation states, *"The hearing officer can accept the purchase price as the appraised value only if you, the hearing officer and two-thirds of the tenants agree."* that is a cumbersome requirement at best. When it also states, *"Finally, the program staff can help explain the rules but cannot assist you in preparing your claim. If you need such assistance you may wish to consult with a financial, property management or legal professional."* that sends a hostile message and I wonder if tenants receive the same. I've had IRS audits that were less onerous than these regulations.

As an owner of a rental property, I am required by the City to have a business license \$150 and be charged an additional amount for each unit. If there is a reduction in the annual 8% raise cap, owners will have no choice but to turn to improvement and debt pass-through petitions. If that happens, estimates call for up to four new staff members at \$100,000 each. This cost will be borne by the owners along with expensive professional guidance. I doubt these extra costs will be considered in a pass-through petition. These present regulations are daunting and deserve some revision for clarity and manageability, which explains some of the chief causes of low usage of the pass-through. All this points to the adequacy of the present rent control ordinance, which allows owners to partially recapture extraordinary expenses through the 8% cap.

When one sees the phrase, "Conflict of Interest," part of the explanation is broadened by including "Appearance." Several factors lead me to the Housing Division and its relationship with the Advisory Committee. The Committee is spending time, clarifying, understanding and making their views known to the public and staff. The voting method on the various topics is tepid at best and sometimes called for before all facts are known. It is clear that Housing will wade through the Committee's statements and then present their interpretation of results. The original concept of an Advisory Committee was to do just that. The Committee is such that in most votes a majority can be made. These points might tame that "Appearance:"

1. Housing staff should do everything in its power to gather all comments and give the results to the Committee and solicit comments, challenges, alterations and eliminations during a public meeting. Then vote for passage of each item under consideration.
2. Voting results by the Committee should be passed on to the City Council intact.
3. Housing may give its opinions and recommendations separately.
4. Housing might have the appearance of Conflict by growing with the ARO expansion.
5. Under no circumstances should the hearing officer, be both mediator and arbitrator of any dispute between tenant and owner.
6. There is always a propensity in working with clients from one segment (tenants) to slowly see their point of view and become unintentionally biased.
7. Independent Ombudsman, mediator and arbitrator might be an idea to explore.

